

1 week was a general summary of three or four pages. Certain
2 things that happened at the precinct, but it didn't include
3 any -- what was disclosed by the Court yesterday. This was
4 40 or 45 pages that was turned over.

5 THE COURT: The DA didn't have those records that
6 you're referring to; is that correct, Mr. DA?

7 MR. ROSENBLATT: That's correct, your Honor.

8 THE COURT: Anything else?

9 MR. BANDELLI: Yeah. Judge, one other thing.

10 I -- just to follow-up with regard to calling the
11 expert witness, and I just want to understand clearly what
12 he is going to be testifying to.

13 The DA had mentioned something about blending and
14 that there was going to be some scientific explanation for
15 why the victim was unable to recall specific dates.

16 Is that what the DA intends to question
17 Dr. Lewittes about?

18 THE COURT: Mr. DA.

19 MR. ROSENBLATT: Your Honor, do you want me to
20 reiterate again what I anticipate Dr. Lewittes testifying to
21 in en todo?

22 THE COURT: Go ahead.

23 MR. ROSENBLATT: Judge, I expect him to testify
24 that through his work, that there is a pattern of behavior
25 that's been applied to the evaluation and treatment of those

1 who have been sexually abused, and part of that testimony
2 will include the fact that disclosure in these types of
3 cases is often delayed.

4 He will also talk about what was evidenced during
5 the testimony, the complaining witness's testimony,
6 including a flat affect, that is, why an individual may not
7 cry upon reciting the facts that had previously happened to
8 them.

9 He will talk about the concept of blending, which
10 is the ability to recall specific dates of abuse,
11 specifically when they are over an extended period of time
12 as in this case.

13 THE COURT: Mr. Bandelli.

14 MR. BANDELLI: Well, Judge, again, I noted this
15 yesterday when Ms. Awan testified in this case yesterday.

16 And this is just one example: The DA had asked
17 her whether or not she recalled a particular time she, I
18 guess, May 1st of 2005 to August 31 of 2005, a four-month
19 period. And she actually reduced the time period to between
20 May and June. And at some point she reduced the time period
21 to May, and she was able to say it was a weekday and she was
22 able to say it was a school day, so it doesn't seem to me
23 that this witness was incapable of recalling specific dates.

24 I think that the DA did not exhaustive techniques
25 available to him to determine when specifically this

1 happened. And this goes back to my argument prior to the
2 trial about sufficient specificity in the indictment. Had
3 the DA chosen to, he could have narrowed down these times to
4 a more specific time, okay? She clearly was capable of
5 identifying more specific times. Because the DA chose to
6 approach this in this way and block off the time in
7 four-month periods over a 37-month period, that doesn't open
8 the door for somebody who is going to say he is an expert to
9 say, well, you know, this is why it would be charged in
10 four-month periods.

11 I think the witness could have told us and it was
12 the DA's obligation to bring that out through the witness
13 and he didn't do that, so now he wants to, you know, fix it
14 through the expert.

15 Also, in terms of her flat affect? Well, I don't
16 even understand what he's talking about in terms of her
17 "flat affect." Did he bring up at all during his direct
18 anything about her affect or why she wasn't crying? I don't
19 remember anything about it, but now he wants to explain to
20 the jury why she wasn't crying through an expert? There is
21 some science that explains why she wasn't crying?

22 So essentially, what the DA wants to do is any
23 mistakes he might have in this case, whether through his
24 failure to properly investigate it or, you know, he didn't
25 ask the right types of questions of his witness, he wants to

1 cure them through the expert, and that's really not the
2 purpose of expert testimony. If there is a science that
3 applies, okay, and a jury can't figure it out from the
4 evidence that was presented, then Richardson's Laws of
5 Evidence permit, but not in this circumstance, Judge, and I
6 strongly object to the calling of this witness.

7 THE COURT: DA?

8 MR. ROSENBLATT: I'm not sure any of that merits a
9 response, your Honor. Your Honor made a ruling and I will
10 stick with your Honor's ruling and my arguments previously
11 made.

12 THE COURT: Besides the lack of affect, what's the
13 other purpose of calling this expert witness?

14 MR. ROSENBLATT: Judge, I believe it's important
15 for the jury to hear the reasons why an individual has
16 difficulty explaining the specific time period the victim is
17 unable to tell the jury the exact date that any of these
18 incidents occurred, that occurred over a three-year time
19 period. People that aren't familiar with sex abuse cases,
20 regular citizens of this county, would have no reason to
21 expect that a victim is unable to say that it happened on X
22 date or during this specific week, and I think it's
23 important for the jury to hear from this expert.

24 MR. BANDELLI: She didn't say that, Judge. She
25 didn't say she couldn't give a specific date.

1 MR. ROSENBLATT: Actually, in fact, she did, and
2 she said it when he cross-examined her and said you can't
3 tell us what date.

4 MR. BANDELLI: No, she said it was May, it was
5 May. It wasn't June, it wasn't July, it wasn't August; it
6 was May. And as a DA, as a former prosecutor, when I sit
7 down and interview that witness before I put her in the
8 grand jury, I don't charge between May and August if she
9 tells me May.

10 MR. ROSENBLATT: Judge, that's not --

11 MR. BANDELLI: Let's go through this: When in
12 May, how do you remember this particular day.

13 THE COURT: Mr. Bandelli, please. Please.
14 Who is your next witness?

15 MR. ROSENBLATT: Police Officer Alfaro.

16 She has since been married since the date of her
17 involvement so it's Police Officer Alfaro Harbus,
18 H-A-R-B-U-S.

19 THE COURT: Would you get the jurors, please?

20 (Whereupon, the jury entered the courtroom and
21 upon taking their respective seats, the following occurred:)

22 THE COURT: Good morning, ladies and gentlemen.

23 THE JURY: Good morning.

24 THE COURT: DA, call your next witness.

25 MR. ROSENBLATT: People call Police Officer Celica

1 Alfaro Harbus.

2 (Whereupon, the witness entered the witness
3 stand.)

4 C E L I C A A L F A R O H A R B U S , Police Officer, a
5 witness called on behalf of the People, after having been
6 first duly sworn and having stated her shield number as 8867
7 and her command as the 105th Precinct, New York City Police
8 Department, took the witness stand and testified as follows:

9 THE WITNESS: Yes.

10 THE CLERK: Thank you. Please be seated.

11 THE OFFICER: People call Police Officer Celica
12 Harbus, first name C-E-L-I-C-A, last name H-A-R-B-U-S,
13 shield 8865, 105 precinct NYPD.

14 THE COURT: You may proceed.

15 MR. ROSENBLATT: Thank you, your Honor.

16 Good morning, Officer.

17 THE WITNESS: Good morning.

18 DIRECT EXAMINATION

19 BY MR. ROSENBLATT:

20 Q Tell the members of the jury how long have you been a
21 member of the New York police department?

22 A Nine years.

23 Q And where are you currently assigned?

24 A To the 105 precinct.

25 Q How long have you been assigned to the 105 precinct?

1 A Eight years.

2 Q Prior to the 105 precinct, where were you assigned?

3 A Police academy.

4 Q What is your current assignment at the 105 precinct?

5 A Patrol.

6 Q Tell the members of the jury, what is patrol?

7 A Consists of writing up company reports, making arrests,
8 getting assigned arrests and answering 911 calls.

9 Q Do you wear a uniform every day to work?

10 A Yes.

11 Q And do you drive a marked or unmarked police vehicle?

12 A A marked.

13 Q And as part of your duties as a patrol officer, do you
14 drive within the confines of the 105 precinct and deal with
15 problems contained in that precinct?

16 A Yes.

17 Q What part of Queens is the 105 precinct?

18 A Queens Village.

19 THE COURT: Officer, do me a favor, could you
20 speak a little louder or closer to the microphone?

21 THE WITNESS: (Complying.)

22 THE COURT: Thank you.

23 Q Back in June of 2008, were you known by Police Officer
24 Harbus, or did you have a different last name?

25 A Officer Alfaro.

1 Q And since then, have you gotten married?

2 A Yes.

3 Q I want to talk to you about June 24th of 2008.

4 Were you working on that date?

5 A Yes.

6 Q And what was your work hours on June 24, 2008?

7 A 11:15 P.M. by 0750 A.M.

8 Q When you say 11:00 P.M., was that starting on June
9 23rd?

10 A Yes.

11 Q And ended on June 24th at what time?

12 A 7:50.

13 Q That was your scheduled tour?

14 A Yes.

15 Q And does there come an occasion when you work that you
16 are required to work overtime as well?

17 A Yes.

18 Q I want to talk to you about June 24, 2008, sometime
19 around 4:00 in the morning.

20 Did you receive a call from your sergeant sometime
21 around 4:00 in the morning?

22 A Yes.

23 Q And what time was it that you received that call?

24 A Approximately 4:40.

25 Q 4:40?

1 A (Nodding.)

2 Q In the morning?

3 A Yes.

4 Q Okay. And without telling us what was said, what was
5 the purpose of returning back to the precinct?

6 A An arrest, an open complaint.

7 Q Say again?

8 A An open complaint.

9 Q What does it mean to make an arrest on an open
10 complaint?

11 A That a complaint had been made, a complaint against
12 another person, and it is processed and it's a complaint that
13 has a person that's wanted.

14 Q And who did you receive that notification to respond
15 back to the precinct from; who did that come from?

16 A Can you rephrase the question?

17 Q Sure.

18 When you received that call at 4:40 in the morning on
19 June 24, 2008, who called you?

20 A My supervisor.

21 Q Okay. And what level rank is your supervisor?

22 A Sergeant.

23 Q How did you receive that notification; was it by cell
24 phone or by some other means?

25 A Cell phone.

1 Q When you received that notification from your sergeant,
2 what did you do?

3 A I put myself on the 10-2.

4 Q Again?

5 A I put myself on the 10-2.

6 Q Tell the members of the jury, what is a 10-2?

7 A Respond back to the station house.

8 Q And how long did it take you to respond back to the
9 station house?

10 A Maybe a minute.

11 Q And when you returned to the station house, were you
12 assigned to make an arrest?

13 A Yes.

14 Q Okay. Whom did you arrest?

15 A Mr. Gopaul, Harold.

16 Q Do you see Harold Gopaul in the courtroom today?

17 A Yes.

18 Q Can you point and identify an article of clothing that
19 he is wearing?

20 A (Indicating.) He is wearing a white button-down shirt.

21 MR. BANDELLI: Indicating my client, your Honor.

22 THE COURT: The record will indicate the witness
23 has identified the defendant.

24 MR. ROSENBLATT: Thank you, your Honor.

25 Q When you made that arrest sometime after 4:40 in the

1 morning on June 24, 2008, do you recall what the defendant was
2 wearing?

3 A Yes.

4 Q What was he wearing?

5 A A blue uniform.

6 Q And do you remember any sort of patches or label that
7 was on the uniform?

8 A I don't recall.

9 Q Okay. And as part --

10 MR. ROSENBLATT: Withdrawn.

11 Q After you made that arrest, did you bring the defendant
12 upstairs to a different part of the precinct?

13 A He was already upstairs.

14 Q Okay. I want to talk to you around the time period
15 between 8:00 and 9:00 in the morning on June 24, 2008.

16 Were you still working at that time?

17 A Yes.

18 Q And were you still working that tour that was supposed
19 to end earlier that morning?

20 A Yes.

21 Q Did you have a conversation between 8:00 and 9:00 in
22 the morning with someone by the name of Sana Awan?

23 A Yes.

24 Q And don't tell us what was said, but did you take her
25 from the precinct to outside of the precinct?

1 A Yes.

2 MR. BANDELLI: Objection. Leading, your Honor.

3 THE COURT: Don't lead the witness.

4 Q Where did you take Sana Awan?

5 A To the side of the precinct where a vehicle was parked.

6 Q I'm sorry?

7 A Where a vehicle was parked.

8 Q Can you describe that vehicle for the members of the
9 jury?

10 A It was a white vehicle with letterings that said EcoLab
11 on it.

12 Q Okay.

13 MR. ROSENBLATT: Officer, would you please show
14 the witness what's in evidence as Exhibit 9, please?

15 THE OFFICER: (Handing.)

16 Q Officer, take a look at what's in evidence as People's
17 Exhibit 9 and tell us: Do you recognize that?

18 A Yes.

19 Q What do you recognize that to be?

20 A The defendant's vehicle.

21 Q When you described the truck earlier that you brought
22 Sana to between 8:00 and 9:00 in the morning, is that that same
23 truck?

24 A Yes.

25 Q When you brought her to the truck, what did you ask

1 her, if anything?

2 MR. BANDELLI: Objection, your Honor.

3 THE COURT: Overruled.

4 A If the meat cleaver was inside the vehicle.

5 Where she pointed out a meat cleaver to me that was in
6 the console.

7 Q It was where?

8 A Middle console.

9 Q And did you enter that vehicle?

10 A Yes.

11 Q And did you recover anything?

12 A I recovered the meat cleaver, a mini meat cleaver.

13 MR. ROSENBLATT: Your Honor, I would ask that the
14 witness be shown People's Exhibit 7 for identification
15 purposes.

16 THE COURT: Please show it to the witness.

17 THE OFFICER: (Complying.)

18 Q Officer, take a look at what's previously been marked
19 as People's Exhibit 7 for identification purposes and tell us if
20 you recognize that item?

21 A Yes.

22 Q What do you recognize that item to be?

23 A The mini meat cleaver that I recovered from the
24 vehicle.

25 Q When you say you recovered the meat cleaver, what did

1 you do after you removed it from the vehicle?

2 A I vouchered it.

3 Q Tell the members of the jury what do you mean when you
4 say voucher?

5 A I took it into police custody as arrest evidence and I
6 placed it into a clear plastic --

7 THE COURT: Officer, do me a favor: Speak slower
8 and louder for the jurors, please.

9 A I took it into police custody. I vouchered it, put it
10 into the clear plastic envelope and I marked it with the invoice
11 number as P 240069.

12 Q Is that a unique number that's assigned by the police
13 department?

14 A Yes.

15 Q And the item that's in front of you as People's
16 Exhibit 7 for identification purposes, is that the same item
17 that you recovered from the inside of the car back on June 24,
18 2008?

19 A Yes.

20 Q After you recovered it, did you show it to the
21 complaining witness?

22 A Yes.

23 Q Did you show her any other knife or meat cleaver as you
24 described it on June 24, 2008?

25 A No.

1 MR. ROSENBLATT: Your Honor, I would offer
2 People's Exhibit 7 into evidence at this time.

3 THE COURT: Would you like to see it again,
4 Mr. Bandelli?

5 MR. BANDELLI: Yes, Judge.

6 THE COURT: Please show it to Mr. Bandelli.

7 MR. BANDELLI: Actually, I don't need to see it.
8 I just have a question, if you don't mind.

9 THE COURT: You may proceed.

10 MR. BANDELLI: Good morning, Officer Alfaro.

11 THE WITNESS: Good morning.

12 MR. BANDELLI: Officer, what's the last name now?

13 THE WITNESS: Harbus.

14 MR. BANDELLI: Good morning, Officer Harbus.

15 VOIR DIRE EXAMINATION

16 BY MR. BANDELLI:

17 Q You don't know who placed that in the vehicle, do you?

18 A Excuse me?

19 Q You do not know who placed that meat cleaver or knife
20 in the vehicle, do you?

21 A No.

22 Q Okay. You don't know when it was placed in the
23 vehicle, do you?

24 A No.

25 MR. BANDELLI: Nothing further.

1 I object.

2 THE COURT: Objection overruled.

3 People's 7 is received in evidence.

4 (Whereupon, the item referred to was marked for
5 evidence as People's Exhibit 7 by the Court Reporter.)

6 THE OFFICER: People's 7 marked and received.

7 CONTINUED DIRECT EXAMINATION

8 BY MR. ROSENBLATT:

9 Q Officer Harbus, just to turn your attention to before
10 you observed that vehicle.

11 Did you at any time receive a consent form from
12 officer -- excuse me -- from Detective Shulman?

13 A Yes.

14 Q Okay. And pursuant --

15 MR. ROSENBLATT: Withdrawn.

16 Q What type of forms did he give you?

17 A I would like to refresh my memory and look at my
18 paperwork.

19 MR. ROSENBLATT: Sure.

20 THE WITNESS: (Perusing.)

21 Q Are you looking for the --

22 MR. ROSENBLATT: Well, withdrawn.

23 Q What are you looking for?

24 A The consent form.

25 MR. ROSENBLATT: Your Honor, with the Court's

1 permission, may the witness be shown People's Exhibits 2 and
2 3 previously received into evidence?

3 THE COURT: Please show it to the witness.

4 THE OFFICER: (Complying.)

5 MR. ROSENBLATT: Thank you very much.

6 Q Officer Alfaro, please look at what's been previously
7 received into evidence as People's 2 and 3.

8 Please tell the members of the jury if you recognize
9 those two items?

10 A Yes.

11 Q Did those two items refresh your recollection as to
12 what you reviewed before searching the defendant's car?

13 A Yes.

14 Q All right. And what is it that you looked at and
15 reviewed before searching his car?

16 A I read the consent form that was written and typed.

17 Q Okay. And after you searched the defendant's car as
18 you described earlier and recovered that knife, did you do
19 another search?

20 A Yes.

21 Q Tell the members of the jury what you did next.

22 A Later on that evening, I went to the defendant's home
23 and recovered a massager.

24 Q Who --

25 MR. ROSENBLATT: Withdrawn.

1 Q Did you go alone or with others to the home?

2 A I went with two other officers.

3 Q And when you went to the defendant's home, do you
4 remember who opened the door for you?

5 A The defendant's wife.

6 Q And were you permitted inside the home?

7 A Yes.

8 Q Where did you go when you went inside the home?

9 A I went into the master bedroom.

10 Q Did you go directly there?

11 A Yes.

12 Q And where in the master bedroom did you look?

13 A Under the bed.

14 Q I'm sorry?

15 A Under the bed.

16 Q Okay. And when you looked under the bed inside the
17 defendant's home, was that 242-10 89 Avenue?

18 A Yes.

19 Q When you looked under the bed inside that home, what
20 did you see?

21 A A massager.

22 Q And what did you do with that massager?

23 A Took it into police custody and vouchered it.

24 Q And was that assigned a different unique number?

25 A Yes.

1 MR. ROSENBLATT: Your Honor, may I show the
2 witness People's Exhibit 8 for identification purposes.

3 THE COURT: Please show it to the witness.

4 THE OFFICER: (Complying.)

5 Q Officer Alfaro, take a look at what's been previously
6 marked as People's Exhibit 8 and tell the members of the jury if
7 you recognize that item?

8 A Yes.

9 Q What do you recognize that to be?

10 A The massager that I recovered from the house.

11 Q And how do you know that that is in fact the massager
12 that you recovered back in June of 2008?

13 A I placed it in a security envelope where I had my
14 handwriting on the security envelope.

15 Q And did you observe your handwriting on that item
16 today?

17 A Yes.

18 MR. ROSENBLATT: Your Honor, at this time I would
19 offer People's Exhibit 8 into evidence.

20 THE COURT: Please show it to Mr. Bandelli.

21 MR. BANDELLI: I don't need to see that, Judge.

22 THE COURT: Do you have any questions?

23 MR. BANDELLI: Yeah. Just real brief.

24 VOIR DIRE EXAMINATION

25 BY MR. BANDELLI:

1 Q You recovered that in the master bedroom?

2 A Yes.

3 Q Under the mother and father's bed?

4 A Yes.

5 MR. BANDELLI: No objection.

6 THE COURT: Being no objection, People's 8 is
7 received in evidence.

8 (Whereupon, the item referred to was marked for
9 evidence as People's Exhibit 8 by the Court Reporter.)

10 THE OFFICER: People's 8 marked and received.

11 CONTINUED DIRECT EXAMINATION

12 BY MR. ROSENBLATT:

13 Q Officer Alfaro, as part of the arrest processing of the
14 defendant, did you photograph him?

15 MR. ROSENBLATT: Withdrawn.

16 Q Did you bring him down to the ground level of the
17 precinct to photograph him?

18 A Yes.

19 Q And approximately what time on June 24, 2008 did you do
20 that?

21 A Approximately 2000 hours.

22 Q When you say 2000 hours, what time is that in regular
23 time?

24 A 8:00 P.M.

25 Q 8:00 P.M. when you photographed the defendant as part

1 of the arrest processing, did you observe any injuries on him?

2 A No.

3 Q Did you observe any scratches on him?

4 A No.

5 MR. BANDELLI: Objection, your Honor.

6 THE COURT: Overruled.

7 Q Did he request medical treatment?

8 A No.

9 MR. BANDELLI: Objection, your Honor.

10 THE COURT: Overruled.

11 Q Did you observe any bruises?

12 A No.

13 MR. ROSENBLATT: Your Honor, I have no further
14 questions for this witness.

15 THE COURT: Mr. Bandelli, you may proceed.

16 MR. BANDELLI: Thank you, Judge.

17 Good morning.

18 THE WITNESS: Good morning.

19 MR. BANDELLI: My name is Stanford Bandelli. I
20 represent Harold Gopaul.

21 I have some questions I'm going to ask you. If
22 you don't know the answer, just tell me you don't know. If
23 you don't understand the question, let me know and I will
24 try and rephrase it.

25 THE WITNESS: Okay.

1 CROSS-EXAMINATION

2 BY MR. BANDELLI:

3 Q All right. You work out of the 105 precinct for the
4 past eight years, correct?

5 A Yes.

6 Q So at the time of this incident, you had been working
7 there six years; is that correct?

8 A Yes.

9 Q And on June 23rd into June 24th, your testimony was
10 that your tour was 11:15 P.M. on the 23rd to 7:50 A.M. on the
11 24th; is that correct?

12 A Yes.

13 Q And you testified that you were on patrol and you got a
14 call to come back to the precinct at around 4:40 A.M.?

15 A Yes.

16 Q Okay. And where on patrol were you?

17 A Excuse me?

18 Q Where were you?

19 A On patrol.

20 Q But where?

21 A Within the confines of the 105 precinct.

22 Q How big is the 105 precinct, the confines?

23 A Approximately thirteen miles.

24 Q Approximately thirteen miles.

25 And do you know where within that thirteen-mile confine

1 you were?

2 A I don't remember.

3 Q Is there anything that might refresh your recollection?

4 A Look into my memo book.

5 Q Okay.

6 A (Complying.)

7 I am looking into my memo book.

8 I don't recall.

9 Q You don't know?

10 A I don't recall.

11 Q So it could have been anywhere within that
12 thirteen-mile vicinity?

13 A I don't recall.

14 Q You arrived at the precinct at 4:41 A.M.; is that your
15 testimony?

16 A Yes.

17 Q Okay. I guess you weren't that far?

18 MR. ROSENBLATT: Objection.

19 Q You said you were called back to the precinct to
20 process an arrest; is that correct?

21 A Yes.

22 Q And that arrest was of my client, Harold Gopaul; is
23 that correct?

24 A Yes.

25 Q And he was already in custody at the time you returned

1 to the precinct; is that correct?

2 A I don't recall.

3 Q You don't recall?

4 Well, you weren't told by the desk sergeant that my
5 client had already been placed in custody prior to your arriving
6 at the precinct?

7 MR. ROSENBLATT: Objection.

8 THE COURT: Sustained.

9 Q Do you recall testifying at a hearing around May 5th of
10 2009 and being asked these questions and giving these answers?

11 "QUESTION: Well, weren't you told to come back to
12 the station house to take an arrest"?

13 MR. ROSENBLATT: I am going to object, your Honor.

14 THE COURT: What's the basis of your objection?

15 MR. ROSENBLATT: The question contains hearsay,
16 Judge.

17 THE COURT: Approach the bench.

18 (Whereupon, a conference was held between all
19 counsel and the Court on the record at the side-bar.)

20 THE COURT: The objection is what?

21 MR. ROSENBLATT: The question at the hearing
22 contains hearsay. At the hearing, it's a different standard
23 than at the trial, obviously, so the questions are permitted
24 at the hearing that contain hearsay; questions at a trial,
25 it's a different.

1 THE COURT: What are you attempting to do?

2 MR. BANDELLI: Rules of Evidence 101. It's a
3 prior inconsistent statement. She doesn't recall what she
4 said.

5 THE COURT: She doesn't recall.

6 Do you want to refresh her recollection.

7 MR. BANDELLI: No, I don't need to refresh her
8 recollection.

9 Do you want to look at Richardson's? It's right
10 here.

11 THE COURT: Please, please, please, please,
12 please.

13 What did she testify to now that she was
14 inconsistent.

15 MR. BANDELLI: That he was under arrest when she
16 got there. He was already in custody. Now she said she
17 doesn't recall.

18 THE COURT: You can attempt to refresh her
19 recollection by asking her to read that she is not stating
20 anything inconsistent.

21 MR. BANDELLI: No, no.

22 THE COURT: Only that she doesn't recall.

23 MR. BANDELLI: Actually saying she doesn't recall
24 enough for me to ask the question, Judge.

25 THE COURT: Mr. Bandelli, it's enough for you to

1 show her the exhibit letter, to read them to herself and ask
2 if it refreshes her recollection.

3 When she said she doesn't know, that's not
4 inconsistent.

5 MR. BANDELLI: Forgotten matter is, according to
6 Richardson's, it's close enough.

7 THE COURT: Bring it up here.

8 MR. BANDELLI: I'll show it to you.

9 Introduction of inconsistent oral statements
10 impeaching evidence requires asking a witness whether the
11 statements were made specifying the time and place person
12 who made and language and substance of the language used.

13 People versus Conception 175 AD 2d.

14 THE COURT: You don't have to read the whole
15 thing.

16 MR. BANDELLI: Okay. It is not necessary in order
17 to admit evidence of inconsistent statements.

18 It's not inconsistent that the witness should deny
19 having made them. If the witness claims not to remember
20 having made the statements, will neither admit nor deny
21 having made the statements, foundation is sufficiently made
22 in the self-contradictory statements, may be shown to
23 impeach the credibility.

24 MR. ROSENBLATT: "May be" shown.

25 MR. BANDELLI: Not to the witness.

1 THE COURT: Mr. Bandelli. She hasn't testified to
2 anything inconsistent.

3 MR. BANDELLI: Doesn't matter.

4 THE COURT: Mr. Bandelli, she said she doesn't
5 recall.

6 MR. BANDELLI: Right, that's enough --

7 THE COURT: If you want to show her the minutes
8 and ask her if that refreshes her recollection, you can do
9 that. She hasn't testified to anything inconsistent that
10 she testified to at the hearing.

11 That's my ruling.

12 MR. BANDELLI: Note my exception, Judge.

13 THE COURT: You have an exception.

14 MR. BANDELLI: And just -- so the case law is Lowe
15 versus New York Central Railroad 161 AD 939 and Handenklerk
16 versus Ehrlich 178 NY 174. This goes back to the beginning
17 of time.

18 (Whereupon, all parties returned from the sidebar
19 and the following took place:)

20 MR. BANDELLI: Your Honor, I am going to ask that
21 this be shown to Officer Harbus, and I am going to circle
22 certain portions of it, specifically lines twelve through 20
23 at page 262, and I am going to ask that she review this and
24 ask her whether or not reviewing this refreshes her
25 recollection as to whether or not Mr. Gopaul was in custody

1 at the time she returned to the precinct.

2 THE COURT: Please show that to the witness.

3 THE OFFICER: (Complying.)

4 THE WITNESS: (Perusing.)

5 Q Does it is refresh your recollection?

6 A Yes.

7 Q Was he in custody at the time you returned to the
8 precinct?

9 A Yes.

10 Q Thank you.

11 So that isn't consistent with what you testified to --

12 THE COURT: Sustained.

13 MR. ROSENBLATT: Objection.

14 THE COURT: Please.

15 Jurors, disregard those comments.

16 Q Who placed Mr. Gopaul in custody?

17 A I wasn't there.

18 Q You weren't there.

19 When did Mr. Gopaul get to the precinct?

20 A I wasn't there.

21 Q So you have no idea what time he got to the precinct?

22 A No.

23 Q You have no idea who placed him in custody?

24 A No.

25 Q When you got to the 105 precinct, were there other

1 police officers at the precinct?

2 A I don't recall.

3 Q You don't recall if there were any other police
4 officers at the 105 precinct?

5 A I don't recall.

6 Q Well, how many officers are typically working a tour
7 from midnight to 8:00 or from 11:15 and 7:50 P.M. in your six
8 years working at the 105 precinct?

9 A Could be up to 15 to 30.

10 Q 15 to 30.

11 And you don't recall if anybody was there?

12 A Officers that I recall, I don't recall any officers.

13 Q Were there officers in the precinct when you got back
14 to the precinct?

15 A Yes.

16 Q But you don't know who they were?

17 A No.

18 Q Was Sergeant O'Hagan there?

19 A I don't recall.

20 Q You don't recall Sergeant O'Hagan was there?

21 MR. ROSENBLATT: Objection.

22 THE COURT: Sustained.

23 Q Do you recall Detective Shulman was there?

24 A Yes.

25 Q Okay. Now you testified earlier that when you got to

1 the precinct, my client was already on the second floor; is that
2 correct?

3 A Yes.

4 Q So that would have been at around 4:40 in the morning
5 or 4:41 A.M. that he was already on the second floor; is that
6 correct?

7 A Yes.

8 Q And that's the detective squad where Detective
9 Shulman's office is located; is that correct?

10 A Yes.

11 Q Okay. Who told you to go up to the second floor?

12 A I don't recall.

13 Q Well, how did you know to go up to the second floor?

14 A Someone told me he was up there, I don't recall who.

15 Q Someone just said, hey, Officer Alfaro, there is
16 somebody up on the second floor?

17 A Yeah.

18 Q Okay. And you don't know who that was?

19 A I don't recall.

20 Q All right. Where was he when you first saw him?

21 A In the interview room.

22 Q Was he in handcuffs?

23 A No.

24 Q Was anybody with him?

25 A He was by himself.

1 Q He was by himself in that interview room.

2 There is a door with a window on it?

3 A Yes.

4 Q And the window was closed at that time, there was an
5 obstruction in front of the window at that time; is that
6 correct?

7 A I don't recall.

8 Q You don't recall that either?

9 A No.

10 Q Well, who pointed you to that interview room and told
11 you he was in there?

12 A Detective Shulman.

13 Q Oh, you talked to Detective Shulman first; is that
14 correct?

15 A Yes.

16 Q Okay. And after talking to Detective Shulman, who went
17 in the room?

18 A I don't recall.

19 Q You don't recall?

20 A No.

21 Q Had you spoken to Sana Awan at this point?

22 A No.

23 Q No.

24 How long after meeting with Mr. Gopaul did you speak
25 with Sana Awan?

1 A Don't recall.

2 Q Was it a half hour, an hour, two hours?

3 A Approximately forty-five minutes to an hour.

4 Q So 25 minutes to a half hour after you placed

5 Mr. Gopaul under arrest, you spoke with Sana Awan; is that
6 correct?

7 A Yes.

8 Q Okay. Do you recall testifying before the grand jury
9 in Queens, Officer Alfaro?

10 A Yes.

11 Q Okay. And do you recall being asked these questions
12 and giving these answers?

13 "QUESTION: Prior to making that arrest on June
14 24, 2008, did you speak to anybody?

15 "ANSWER: Yes.

16 "QUESTION: Who did you speak with?

17 "ANSWER: The complainant.

18 "QUESTION: What is her name?

19 "ANSWER: Sana.

20 "QUESTION: After speaking with her on June 24th,
21 who did you arrest?

22 "ANSWER: The defendant, Mr. Gopaul."

23 Q Didn't you just testify that you didn't speak to the
24 complainant until a half hour after you arrested Mr. Gopaul?

25 A Yes.

1 Q But in the grand jury, it was different. In the grand
2 jury, you said you spoke to her and then you placed him under
3 arrest; isn't that correct?

4 A Yes, yes.

5 Q So which is it?

6 MR. ROSENBLATT: Objection.

7 THE COURT: Overruled.

8 A I spoke to her after -- after he was placed under
9 arrest.

10 Q So you lied under oath before the grand jury?

11 MR. ROSENBLATT: Objection.

12 THE COURT: Sustained.

13 Q Did you prepare an online booking sheet in this case?

14 A Yes.

15 Q That's one of your duties as the arresting officer, to
16 prepare an online booking sheet, right?

17 A Yes.

18 Q And on the online booking sheet, there is a box that
19 asks time of arrest for an individual; is that correct?

20 A Yes.

21 Q And that's information that is required to be filled
22 out by the arresting officer; is that correct?

23 A Yes.

24 Q Do you have a copy of your online booking sheet in this
25 case?

1 A Yes.

2 (Perusing.)

3 Q What time does it indicate you placed Mr. Gopaul under
4 arrest?

5 MR. ROSENBLATT: Objection.

6 Q What time?

7 THE COURT: Overruled.

8 MR. BANDELLI: Thank you, your Honor.

9 A 0445.

10 Q It says time of arrest 0445 on the online booking
11 sheet?

12 A Yes.

13 MR. BANDELLI: Really.

14 I'll have this marked Defendant's Number 1 for
15 identification and ask that it be shown to the witness.

16 THE COURT: Please mark that Defense A for
17 identification.

18 (Whereupon, the item referred to was marked for
19 identification as Defendant's Exhibit A by the Court
20 Reporter.)

21 THE OFFICER: Defense A marked for ID only.

22 Q Officer, do you recognize that?

23 A Yes.

24 Q What do you recognize it to be?

25 A Online booking sheet.

1 Q Is that the online booking sheet that you prepared?

2 A Yes.

3 Q And you prepared that in the regular course of your
4 duties as a police officer?

5 A Yes.

6 Q And it's required to be prepared in accordance with
7 your duties as a police officer; is it not?

8 A It's not required.

9 Q The New York patrol volume doesn't require that you
10 prepare --

11 A It's just a rough draft.

12 Q It's a rough draft.

13 You prepared that rough draft?

14 A Yes.

15 Q Okay. Okay. And that rough draft was completely
16 filled out?

17 A No.

18 Q It's not, okay.

19 What's missing from it?

20 A The arrest number.

21 Q And how about the arrest time?

22 A The arrest time.

23 Q Is there an arrest time on that online booking sheet?

24 A No.

25 Q No.

1 When did you put --

2 Can I see the online booking sheet that you referred
3 to?

4 A (Handing.)

5 Q This isn't an online booking sheet?

6 MR. ROSENBLATT: Objection.

7 MR. BANDELLI: Wow, wow, wow.

8 THE COURT: It's sustained.

9 MR. BANDELLI: Hand this back to the witness.

10 THE OFFICER: (Complying.)

11 Q What is this that you are referring to as an online
12 booking sheet?

13 A It's an online, it's an online.

14 Q Is that the online booking sheet, the arrest booking
15 sheet that was supposed to be filed in this case?

16 MR. ROSENBLATT: Objection.

17 THE COURT: Approach the bench, please.

18 (Whereupon, a conference was held between all
19 counsel and the Court on the record at the side-bar.)

20 THE COURT: You are getting --

21 MR. BANDELLI: We have an online booking sheet. I
22 don't know what that is, I asked her --

23 THE COURT: It's an arrest form.

24 MR. BANDELLI: It's not an online booking sheet?

25 THE COURT: It's an arrest form.

1 MR. BANDELLI: Judge, we all learned in intake
2 what an online booking sheet is.

3 THE COURT: Mr. Bandelli, that's an online
4 booking.

5 MR. BANDELLI: Correct.

6 THE COURT: And this is an arrest form
7 (indicating).

8 MR. BANDELLI: So (indicating) --

9 MR. ROSENBLATT: He is not testifying, okay?
10 What counsel is doing is insinuating to the jury
11 that he is the one who is going to provide the information.
12 He is not providing questions, he is providing answers for
13 the jury. I am asking the comments stop.

14 THE COURT: What?

15 MR. ROSENBLATT: I am asking the comments to the
16 jury stop.

17 THE COURT: The officer may not know the
18 difference between --

19 MR. BANDELLI: Well, how do we clarify that,
20 Judge?

21 THE COURT: See this, "arrest form" on top.

22 MR. BANDELLI: And I am asking about the online
23 booking sheet, though.

24 THE COURT: You can proceed without getting too
25 excited about all of this.

1 Go ahead.

2 MR. BANDELLI: I mean, this is --

3 THE COURT: Go ahead, proceed.

4 (Whereupon, all parties returned from the sidebar
5 and the following took place:)

6 MR. BANDELLI: May I, Judge?

7 THE COURT: Yes, you may.

8 Q Do you have a copy of your online booking sheet?

9 A Yes.

10 Q Can I see it, please?

11 A (Hanging.)

12 Q Okay. This is your online booking sheet?

13 A Yes. And here is the other half of it (hanging).

14 Q And I'll ask you to note on your online booking sheet,
15 what time did you identify is the time of the arrest of the
16 defendant?

17 A I don't have it written down.

18 Q You didn't write it down?

19 A No.

20 Q And it's required to be put in there; isn't that
21 correct?

22 MR. ROSENBLATT: Objection.

23 THE COURT: Let me see that.

24 THE WITNESS: (Hanging.)

25 It's a worksheet.

1 THE COURT: (Perusing.)

2 All right. Officer, this Defendant's Exhibit A is
3 not the final copy, is it? Is that the final copy?

4 THE WITNESS: I have to look.

5 MR. BANDELLI: She has her own copy, Judge. That
6 was my copy.

7 THE WITNESS: (Perusing.)

8 THE COURT: Those copies of each other or is one a
9 finalized copy?

10 THE WITNESS: It's a copy of each other.

11 THE COURT: You may proceed, Mr. Bandelli.

12 Q There was a question asked: Are you required to put
13 the time of the arrest on the online booking sheet; is that
14 correct?

15 A It's a worksheet, it's not required. If you have the
16 hard copy which you put into the computer which is the hard copy
17 which goes into the computer is the final where you get an
18 online, where you get an arrest number.

19 Q Does it say directly on the online booking sheet this
20 information is required to be provided on this sheet?

21 MR. ROSENBLATT: Objection.

22 THE COURT: Let's clear up the other thing.
23 Are those scratch copies?

24 THE WITNESS: These are scratch copies.

25 THE COURT: Scratch copies?

1 THE WITNESS: Yes.

2 Q Are they signed off by supervisors?

3 THE COURT: Mr. Bandelli, please. Mr. Bandelli.

4 MR. BANDELLI: But they are signed off on.

5 THE COURT: Please. Mr. DA, where is the final
6 copy of this online booking sheet?

7 (There was a brief pause in the proceedings.)

8 THE COURT: Officer, I just want to clarify
9 something: Those what you call "scratch copies" that you
10 have, Defense A and your own copy, are those duplicates of
11 each other?

12 THE WITNESS: Yes, they are.

13 THE COURT: Okay. Now who inputs these in the
14 computer system in the precinct?

15 THE WITNESS: Usually it's a PA or an officer, if
16 they have a code.

17 THE COURT: Then a copy comes out, the final copy
18 comes out in printed form, correct?

19 THE WITNESS: Yes.

20 THE COURT: Okay, proceed.

21 MR. BANDELLI: I would like to see the final copy,
22 Judge.

23 THE COURT: Do you have a final copy?

24 MR. BANDELLI: That's all that I was provided
25 with, Judge. I thought it was a final copy.

1 THE COURT: A final copy is in printed form, the
2 witness said.

3 MR. BANDELLI: I don't have it.

4 MR. ROSENBLATT: Printed form, the typed form,
5 Judge?

6 THE COURT: Yes.

7 MR. ROSENBLATT: The Omni arrest form, Judge.

8 MR. BANDELLI: No, the online booking sheet.

9 MR. ROSENBLATT: Could we approach, Judge?

10 THE COURT: Approach the bench.

11 MR. ROSENBLATT: I think we are all talking about
12 different things.

13 THE COURT: Maybe we are. Approach.

14 (Whereupon, a conference was held between all
15 counsel and the Court on the record at the side-bar.)

16 MR. ROSENBLATT: You are confused with what you're
17 asking, Judge.

18 (Whereupon, all parties returned from the sidebar
19 and the following took place:)

20 MR. BANDELLI: Just a couple of questions and I'll
21 move on.

22 Q The online booking sheet that was marked as
23 Defendant's A and the copy that you had in your file is
24 identical; is that correct?

25 A Yes.

1 Q At the bottom, that's signed off by a supervising
2 officer; is that correct?

3 A Yes.

4 Q Who's it signed off by?

5 A Sergeant Manglangis.

6 Q And who else?

7 A Officer Alfaro, me.

8 Q Sergeant who?

9 A Me and Sergeant Manglangis.

10 Q Who?

11 A Me and Sergeant Manglangis.

12 Q You signed off on that after you reviewed it; is that
13 correct?

14 A Yes.

15 Q And there is no arrest time in that?

16 MR. ROSENBLATT: Objection, asked and answered.

17 MR. BANDELLI: I am just trying to clarify this,
18 Judge.

19 THE COURT: Sustained.

20 Q Is there an arrest time on that?

21 MR. ROSENBLATT: Objection. Asked and answered.

22 THE COURT: Overruled.

23 A Yes -- no, no arrest time.

24 Q There is not, correct?

25 A No.

1 MR. BANDELLI: Thank you.

2 I will take that back.

3 THE OFFICER: (Handing.)

4 Q Now you said you spoke to -- you testified here today
5 that you spoke to Ms. Awan about a half hour after you had
6 placed Mr. Gopaul under arrest; is that correct?

7 A Yeah, about forty-five minutes.

8 Q Where was that?

9 A Up in the squad.

10 Q Up in the squad.

11 Where in the squad?

12 A In a different interview room.

13 Q Okay. Who was present?

14 A Her mother.

15 Q Her mother?

16 A Yes.

17 Q Okay. And at some point -- at some point, you went
18 down to -- to inspect my client's automobile; is that correct?

19 A Yes.

20 Q And that would have been between 8 o'clock and
21 9 o'clock in the morning; is that correct?

22 A Yes.

23 Q Okay. And you went into the vehicle; is that correct?

24 A Yes.

25 Q Okay. And did you use the keys to get into the

1 vehicle?

2 A I don't recall.

3 Q How did you get into the vehicle?

4 A I don't recall.

5 Q You don't recall how you got into the vehicle?

6 MR. ROSENBLATT: Objection, asked and answered.

7 THE COURT: Sustained.

8 Q Well, who told you to go down to the vehicle?

9 A I don't recall.

10 Q Why did you decide to go down to the vehicle?

11 A Because the victim said that there was like a meat
12 cleaver that was used.

13 Q Okay. And she said that to you forty-five minutes
14 after you arrested Mr. Gopaul which would have been at 5:30 in
15 the morning.

16 Why did you decide to go down there between 8 o'clock
17 and 9 o'clock in the morning?

18 MR. ROSENBLATT: Objection.

19 THE COURT: Sustained.

20 Q Well, why didn't you go down there right after she told
21 you?

22 MR. ROSENBLATT: Objection.

23 THE COURT: Sustained.

24 Q Isn't it a fact Detective Shulman is the one who told
25 you to go down to the vehicle?

1 A I don't recall.

2 Q You don't recall?

3 A (Nodding.)

4 Q Isn't it a fact Detective Shulman had the keys to the
5 vehicle?

6 A I don't recall.

7 Q The defendant, my client, Mr. Gopaul drove over to the
8 precinct in that vehicle; is that correct?

9 MR. ROSENBLATT: Objection.

10 THE COURT: Do you know the answer to that?

11 Q If you know the answer.

12 A I wasn't there.

13 Q So you don't know how the vehicle got there?

14 A No.

15 Q Was the vehicle there before you went out on patrol on
16 June 23rd?

17 A No.

18 Q It wasn't there, but it was there when you returned at
19 4:41; is that correct?

20 A Yes.

21 Q Which means somebody would have given it there; is that
22 correct?

23 A Yes.

24 Q Okay. And did this vehicle require a key to operate?

25 A I believe so.

1 Q Okay. And your testimony is that you have no idea
2 where that key is; is that correct?

3 A I don't recall if the vehicle was unlocked or if it was
4 locked.

5 Q Okay. What happened to the key?

6 A I don't recall.

7 Q Well, who had the key to the vehicle?

8 A I don't recall.

9 Q Did my client have the key to the vehicle?

10 THE COURT: Sustained.

11 Mr. Bandelli, she doesn't know where the key is,
12 okay? Move on.

13 MR. BANDELLI: Okay.

14 Q Now, you said later that evening, almost 8 o'clock,
15 9 o'clock at night, almost twelve hours after you had completed
16 your tour, you went over to Mr. Gopaul's house; is that correct?

17 A I said later that evening. I don't know approximately
18 what time.

19 Q Well, you testified -- okay. Well, when was it, later
20 on that evening, then?

21 A I don't recall. It was dark out.

22 Q Okay. And this was in June of 2008, right?

23 A Yes.

24 Q What time did it start getting dark in June of 2008?

25 A I don't know. It was two years ago, so I don't know.

1 Q Well, what time, based on your life experience, does it
2 start to get dark in the summer?

3 A Usually like around 7:30, 8 o'clock.

4 Q So then you would have gone to the house sometime after
5 7:30, 8 o'clock because it was dark out, right?

6 A Yeah.

7 Q Who did you go with?

8 A Two officers.

9 Q Okay. And who was that?

10 A Officer Morris and Officer Ingrassia.

11 Q Was that Officer Morris, the officer that initially
12 interviewed Sana when she first came to the precinct?

13 A Yes.

14 Q But she wasn't the arresting officer, was she?

15 A No.

16 Q And when you got to the house, Mr. Gopaul's wife,
17 Merlin Gopaul, was there at the house; is that correct?

18 A Yes.

19 Q Did she let you right into the house?

20 A Excuse me?

21 Q Did she let you right into the house?

22 A Yes.

23 Q And did you know where the master bedroom was when you
24 came into the house?

25 A No.

1 Q Did you ask her where the master bedroom was?

2 A Sana showed me.

3 Q She showed you where it was, right?

4 A Yes.

5 Q She said: Come on up to the master bedroom, right?

6 A Yes.

7 Q And you went into the master bedroom and you looked

8 under her bed, right?

9 A Yes.

10 Q And that's where you found the massager?

11 A Yes.

12 MR. BANDELLI: I have no further questions.

13 MR. ROSENBLATT: Just briefly, your Honor.

14 THE COURT: You may proceed.

15 MR. ROSENBLATT: Thank you.

16 REDIRECT EXAMINATION

17 BY MR. ROSENBLATT:

18 Q I'm sorry. Officer Harbus, who showed you where the
19 master bedroom was? I didn't hear you.

20 A Sana.

21 Q Sana?

22 A Sana.

23 Q Now there was some confusion earlier about different
24 forms that are filled out in regards to arrest processing?

25 A Yes.

1 Q You talked about a scratch copy earlier.

2 Tell the members of the jury what you do with that
3 scratch copy.

4 A That scratch copy is for my files. It just writes down
5 basically what the charges are so my supervisor can review, if
6 there is any other charges that need to be added, they could add
7 it or take a charge away if it's not.

8 Q Go ahead. I'm sorry.

9 A And then from there I put it into the computer which is
10 a hard copy and that's the finalized copy.

11 Q And after you enter that scratch copy into the
12 computer, what's generated?

13 A An online -- an arrest ID number.

14 Q All right. And on that arrest paperwork, is an arrest
15 time generated as well?

16 A Yes.

17 Q Okay. How does that arrest time get generated?

18 A The officer inputs it.

19 Q Okay. Now you told us earlier that you were unsure
20 about the car keys, as to where they came from --

21 A Yes.

22 Q -- correct?

23 Did there come a point in time, specifically I am
24 speaking about 9:24 in the evening, that you returned this
25 Ecolab truck back to the company?

1 THE WITNESS: Can I refresh my recollection?

2 MR. ROSENBLATT: With the Court's permission,
3 absolutely.

4 THE WITNESS: (Perusing.)

5 A Yes.

6 Q Okay. And at 9:24 in the P.M. on June 24, 2008, how
7 did you return that car back to its -- back to the owner or
8 someone from the company?

9 A Returned it with the keys and to a representative of
10 the Ecolab company.

11 MR. ROSENBLATT: I have no further questions, your
12 Honor. Thank you.

13 THE COURT: Any recross, Mr. Bandelli?

14 MR. BANDELLI: Yeah.

15 RECROSS-EXAMINATION

16 BY MR. BANDELLI:

17 Q Where did you get the keys from?

18 A I don't recall.

19 MR. BANDELLI: Nothing further, Judge.

20 THE COURT: All right. Thank you, Officer. You
21 may step down.

22 (Whereupon, the witness left the witness stand.)

23 THE COURT: All right. Members of the jury, take
24 a 15 minute recess. The Court has another matter it must
25 tend to.

1 Remember you are not to discuss this case among
2 yourselves or with anyone fellows anyone tries to discuss it
3 with you, you are to bring it to my attention. And you are
4 not to form any opinion as to whether or not you feel the
5 defendant is guilty or not guilty of the crimes with which
6 he is charged.

7 Please follow the instruction of the court
8 officer.

9 (Whereupon, the jury exited the courtroom and the
10 following occurred:)

11 THE COURT: Take a 15-minute recess, please.

12 Put Mr. Gopaul back in.

13 (Whereupon, a recess was taken, after which the
14 following occurred.)

15 THE CLERK: Case on trial. All parties present,
16 your Honor.

17 THE COURT: Bring out the jurors, please.

18 (Whereupon, the jury entered the courtroom and
19 upon taking their respective seats, the following occurred:)

20 THE CLERK: Case on trial. All parties present,
21 your Honor.

22 Do both sides stipulate all jurors are present and
23 properly seated?

24 MR. ROSENBLATT: Yes.

25 MR. BANDELLI: So stipulated, your Honor.

1 THE COURT: You may call your next witness.

2 MR. ROSENBLATT: People call Christine Alioto.

3 (Whereupon, the witness entered the witness
4 stand.)

5 C H R I S T I N E A L I O T O , after having first been duly
6 sworn was examined and testified as follows:

7 THE WITNESS: Yes.

8 THE CLERK: Thank you. Please be seated.

9 THE OFFICER: People call Christine Alioto, last
10 name A-L-I-O-T-O, resident of Queens County.

11 THE COURT: You may proceed, Mr. DA.

12 MR. ROSENBLATT: Thank you, your Honor.

13 DIRECT EXAMINATION

14 BY MR. ROSENBLATT:

15 Q Christine, how old are you?

16 A 19.

17 Q When were you born?

18 A June 17, 1991.

19 Q And do you work or are you in school?

20 A I'm in school.

21 Q What type of school do you attend?

22 A College.

23 Q And what state do you go to school in?

24 A Connecticut.

25 Q What year of college are you currently in?

1 A I just finished my first year.

2 Q And what high school did you go to?

3 A I went to Queens High School of Teaching.

4 Q How did you do in high school?

5 A I was an honors student.

6 Q How are you doing in college?

7 A Pretty good.

8 Q When you lived in Queens, who do you live with?

9 A My mother.

10 Q And what's your mother's name?

11 A Denise Alioto.

12 Q Can you describe what your relationship is with your
13 mother?

14 A She is very supportive of me. I can confide in her, I
15 can talk to her.

16 Q Okay. Do you know someone by the name of Sana Awan?

17 A Yes, I do.

18 Q Okay. I want to talk to you about prior to June 23rd
19 of 2008.

20 What was your relationship with Sana Awan?

21 A We were classmates. And through volunteering for
22 teaching at school, we became best friends.

23 Q Did you go to school together at Queens High School for
24 Teaching?

25 A Yes.

1 Q And do you remember when you first met, what year it
2 was in school?

3 A It was probably junior year.

4 Q Prior to June 23rd of 2008, had Sana ever been to your
5 home?

6 A Prior to June -- being -- yes.

7 Q And prior to June 23rd of 2008, had you ever been in
8 her home?

9 A Yes.

10 Q Do you know someone by the name of Harold Gopaul?

11 A Yes, I do.

12 Q Who's he?

13 A He is Sana's stepfather.

14 Q Do you see him in the courtroom today?

15 A Yes, I do.

16 Q Can you identify him by an article of clothing that he
17 is wearing?

18 A He is wearing a white shirt with pinstripes and a red
19 tie.

20 MR. BANDELLI: Indicating my client.

21 THE COURT: Let the record reflect the witness
22 identified the defendant.

23 MR. ROSENBLATT: Thank you, your Honor.

24 Q Prior to June 23rd of 2008, approximately how many
25 times had you met Mr. Gopaul, the defendant?

1 A I would say about more than ten times.

2 Q Okay. Whenever he picked you up from school?

3 A Yes.

4 Q And had he ever driven you to school?

5 A No.

6 Q I want to talk to you about June 23, 2008 at
7 approximately 8:00 P.M. in the evening.

8 A Okay.

9 Q On June 23, 2008 sometime after 8 o'clock in the
10 evening, where were you?

11 A I was in my room.

12 Q And what happened on that date?

13 A I received a phone call from Sana.

14 Q Don't tell us what she told you, but can you describe
15 the tone of her voice?

16 A She was very nervous.

17 Q Had you spoken to her on the phone prior to June 23rd
18 of 2008, have you and her ever spoken on the phone?

19 A Yes.

20 Q Was this a normal tone of her voice?

21 A No.

22 Q Don't tell us what she said, but what did you say to
23 her?

24 MR. BANDELLI: Objection, your Honor.

25 THE COURT: Basis of your objection?

1 MR. BANDELLI: It's hearsay, what she said
2 previously.

3 THE COURT: Approach the bench.

4 (Whereupon, a conference was held between all
5 counsel and the Court on the record at the side-bar.)

6 THE COURT: I will hear you.

7 MR. ROSENBLATT: Judge, I believe that what this
8 witness is going to say is not hearsay, and even if your
9 Honor determines it is hearsay, it's not got all the
10 requirements that a Court looks to when evaluating
11 testimony. She can be examined as to what she said. She is
12 here before the jury for them to evaluate her credibility.

13 MR. BANDELLI: That's not a basis for the
14 admissibility statement that I can cross-examine her on.

15 THE COURT: Objection overruled. You have your
16 exception.

17 MR. BANDELLI: Thank you.

18 (Whereupon, all parties returned from the sidebar
19 and the following took place:)

20 Q Do you remember what the question was, or do you want
21 me to repeat it?

22 A Please repeat it.

23 Q Don't tell us what Sana said to you, but what did you
24 say to her?

25 A I said -- has he touched you. She responded.

1 MR. BANDELLI: Objection.

2 Q Don't tell us --

3 MR. BANDELLI: Objection.

4 THE COURT: Approach the bench.

5 (Whereupon, a conference was held between all
6 counsel and the Court on the record at the side-bar.)

7 THE COURT: The last answer was there.

8 I will allow the answer to remain as evidence in
9 this case.

10 Your objection is overruled. Don't ask her to
11 repeat that.

12 MR. ROSENBLATT: I will not.

13 THE COURT: It's in the record.

14 MR. ROSENBLATT: Thank you.

15 THE COURT: Proceed.

16 (Whereupon, all parties returned from the sidebar
17 and the following took place:)

18 THE COURT: You may proceed.

19 Q Christine, after Sana said that to you, what did you
20 do?

21 A I woke my mother.

22 MR. BANDELLI: After that, Sana said what to you?

23 MR. ROSENBLATT: Okay. Judge, I will withdraw the
24 question.

25 Q What did Sana say to you?

1 MR. BANDELLI: Objection.

2 MR. ROSENBLATT: I will withdraw the question.

3 THE COURT: Sustained.

4 Q Without telling what Sana said, what did you do next?

5 A I woke my mother up.

6 Q And what did you do in regards to the phone?

7 A I gave the phone to my mother.

8 Q And did there come a point in time when your mother
9 hung up the phone?

10 A Yes.

11 Q After your mother hung up the phone, what happened?

12 A We got dressed and we went to go get Sana.

13 Q When you say you went to get Sana, where did you get
14 her?

15 A We picked her up a couple blocks away from our house.

16 Q And approximately how far from your house or her
17 house -- I'm sorry.

18 A We are not very far from each other, so it was in
19 between.

20 Q A few blocks from your house and a few blocks from her
21 house?

22 A Yeah.

23 Q And how did Sana appear when you picked her up?

24 A Very nervous.

25 Q After you picked up Sana, where did you go?

1 A We went to the precinct.

2 Q Prior to arriving at the precinct, did you stop
3 somewhere else?

4 MR. BANDELLI: Objection.

5 THE COURT: Overruled.

6 A We stopped to -- my mom made a phone call and Sana and
7 I left the car and we went into Hollywood Video and so I just
8 saw she was very, very upset.

9 Q Okay. Well --

10 MR. BANDELLI: Objection, your Honor.

11 THE COURT: Overruled.

12 MR. BANDELLI: The question is --

13 THE COURT: Overruled, overruled, overruled.

14 Q When your mother was on the phone call, you and Sana
15 got out?

16 A Yes.

17 Q And then you went to the precinct?

18 A Yes.

19 Q Approximately, if you remember, in June of 2008, do you
20 remember what time you arrived at the precinct?

21 A I would say about, around 9 o'clock.

22 Q And where in the precinct were you when you got there?

23 A We were on the ground floor.

24 Q Okay. And what happened when you got to the ground
25 level of the precinct?

1 A So Sana was taken into a back room. My mom and I
2 stayed outside and she spoke to police officers.

3 Q And did there come a point in time when you left the
4 ground level of the 105 precinct?

5 A Yes.

6 Q And where did you go?

7 A We went upstairs.

8 Q And who did you meet upstairs?

9 A Detective Shulman.

10 Q Did there come a point in time when you were in the
11 precinct that you observed anything on Sana?

12 A Yes, I observed bruises.

13 Q Where did you observe the bruises?

14 A On her arms, and there was a cut and bruise on her
15 earlobe (indicating).

16 Q Do you remember when you were inside the precinct at
17 around 4:00 to 4:30 in the morning?

18 A Yes.

19 Q Okay. What happened between 4:00 and 4:30 in the
20 morning?

21 A I was told by a police officer that I needed to hide
22 behind a wall because --

23 MR. BANDELLI: Objection to what she was told by a
24 police officer.

25 THE COURT: Sustained.

1 Q Well, between 4:00 and 4:30 in the morning, what did
2 you do?

3 A I went behind a wall.

4 Q Okay. Did you see anyone when you were hiding behind
5 the wall?

6 A No.

7 Q Between the time that you arrived between, I think you
8 said around 9:00, 9:30 in the P.M. until 4:00 or 4:30 in the
9 morning when you had to hide, did you leave the precinct at all?

10 MR. BANDELLI: Objection to when she had to hide.
11 What's the relevance?

12 THE COURT: Mr. Bandelli.

13 MR. BANDELLI: I want to know.

14 THE COURT: No speeches in front of the jury.

15 Approach the bench.

16 (Whereupon, a conference was held between all
17 counsel and the Court off the record at the side-bar.)

18 Q Christine, at approximately 11:00 in the morning, did
19 you leave the precinct?

20 A Yes.

21 Q And where did you go?

22 A Went home just to change our clothes and grab clothes
23 for Sana.

24 MR. ROSENBLATT: Judge, I have no further
25 questions for this witness.

1 THE COURT: Thank you.

2 Mr. Bandelli.

3 MR. BANDELLI: Thank you, Judge.

4 May I inquire, Judge?

5 THE COURT: Yes, you may.

6 MR. BANDELLI: Good afternoon, Ms. Alioto.

7 THE WITNESS: Hi.

8 MR. BANDELLI: My name is Stanford Bandelli. I
9 represent Harold Gopaul.

10 I have some questions for you, to ask. If you
11 don't know the answer, just tell me you don't know. If you
12 don't understand the question, let me know and I will
13 rephrase it, okay?

14 THE WITNESS: Okay.

15 MR. BANDELLI: All right. If I am not speaking
16 loud enough, let me know. I don't think that will be a
17 problem.

18 THE WITNESS: Okay.

19 CROSS-EXAMINATION

20 BY MR. BANDELLI:

21 Q You described yourself as best friends with Sana; is
22 that correct?

23 A Yes.

24 Q Okay. How long had you been best friends for prior to
25 June 23rd of 2008?

1 A Probably about a year.

2 Q A year.

3 So that would have taken you into your, I guess the end
4 of your sophomore year?

5 A Yeah, end of sophomore year.

6 Q In high school, were there any other girls that were
7 part of yours and Sana's group, any other friends, close
8 friends?

9 A We had a big group of friends, but I think I was the
10 closest to her.

11 Q Who are the other girls?

12 MR. ROSENBLATT: Objection.

13 THE COURT: Sustained.

14 Q And did you socialize with the other girls and Sana?

15 A Yes.

16 Q Go to parties?

17 A No.

18 Q Attended afterschool activities and stuff like that?

19 A Yeah, basketball games.

20 Q Did you ever go to the beach or anything like that?

21 A No.

22 Q Go to the movies?

23 A Probably the movies, yeah.

24 Q And the whole time that this was going on up until June
25 23rd of 2008, Sana never said anything to you about her

1 stepfather, did she?

2 A No.

3 Q She was a good student?

4 A Yes.

5 Q She had good grades?

6 A Yes. She was an honor student.

7 Q Her father took it seriously too, right?

8 MR. ROSENBLATT: Objection.

9 THE COURT: Sustained.

10 Q You had an opportunity to get to know my client,
11 Mr. Gopaul; is that correct?

12 A I did.

13 Q He drove you to school?

14 A He did.

15 Q How many times did you say?

16 A Probably more than ten times.

17 Q Okay. So you didn't feel unsafe driving with
18 Mr. Gopaul, did you?

19 A No.

20 Q Sana had a boyfriend in the spring of 2008; is that
21 correct?

22 A Yes.

23 Q Okay. You know who that boy was?

24 A Yes.

25 Q Without identifying him, you know who that boy was?

1 A (Nodding.)

2 Q Sana's parents did not approve of that relationship,
3 they objected?

4 MR. ROSENBLATT: Objection.

5 THE COURT: Sustained.

6 Q Do you know if Sana's parents objected?

7 MR. ROSENBLATT: Objection.

8 THE COURT: Sustained.

9 Q Well, did Sana ever discuss with you her parents'
10 position concerning the relationship between her and this boy?

11 MR. ROSENBLATT: Objection.

12 THE COURT: I will allow that to be answered yes
13 or no.

14 A Yes.

15 Q And she wasn't happy with her parents' position, was
16 she?

17 MR. ROSENBLATT: Objection.

18 THE COURT: Sustained.

19 Q Did she express to you that her parents were happy with
20 this relationship?

21 MR. ROSENBLATT: Objection.

22 THE COURT: Mr. Bandelli, no matter how many ways
23 you try to ask that question, I am going to sustain the
24 objection.

25 MR. BANDELLI: Note my exception, Judge.

1 Q Up until June 23, 2008, this never came up; is that
2 correct?

3 MR. ROSENBLATT: Objection, Judge. What?

4 THE COURT: Sustained.

5 Q Up until June 23rd of 2008, you never tried a drink
6 with Sana Awan, did you?

7 A No.

8 MR. BANDELLI: Nothing further.

9 THE COURT: Thank you. You may step down.

10 THE WITNESS: Oh, thank you.

11 THE COURT: Have a nice day.

12 (Whereupon, the witness left the witness stand.)

13 THE COURT: Ladies and gentlemen, rather than
14 start another witness, we will give you a few extra minutes
15 for lunch. Thank you.

16 You are not to discuss this case among yourselves
17 or with anyone else. If anyone tries to discuss it with
18 you, you are to bring it to my attention immediately. You
19 are not to visit any locations mentioned and you are not to
20 form any opinion as to whether you feel the defendant is
21 guilty or not guilty of the crimes with which he is charged.

22 Please follow the instructions of the court
23 officer. Come back here at 2 o'clock. Thank you.

24 (Whereupon, the jury exited the courtroom and the
25 following occurred:)

1 THE COURT: Any matters before we recess?

2 MR. BANDELLI: No, Judge.

3 MR. ROSENBLATT: I have none.

4 THE COURT: 2 o'clock.

5 Please put Mr. Gopaul back in.

6 (Whereupon, a luncheon recess was taken at this
7 time.)

8 * * *

9 A F T E R N O O N S E S S I O N

10 * * *

11 (Whereupon, the jury entered the courtroom and
12 upon taking their respective seats, the following occurred:)

13 THE CLERK: Case on trial. All parties present,
14 your Honor.

15 Do both sides stipulate all jurors are present and
16 properly seated?

17 MR. ROSENBLATT: Yes.

18 MR. BANDELLI: So stipulated, Judge.

19 THE COURT: You may call your next witness,
20 Mr. DA.

21 MR. ROSENBLATT: People call Denise Alioto.

22 (Whereupon, the witness entered the witness
23 stand.)

24 D E N I S E A L I O T O , after having first been duly sworn
25 was examined and testified as follows:

1 THE WITNESS: I do.

2 THE CLERK: Thank You. Please be seated.

3 THE OFFICER: People call Denise Alioto, last name
4 A-L-I-O-T-O, resident of Queens County.

5 THE COURT: You may proceed, Mr. DA.

6 MR. ROSENBLATT: Thank you, your Honor.

7 Good afternoon, Ms. Alioto.

8 THE WITNESS: Good afternoon.

9 DIRECT EXAMINATION

10 BY MR. ROSENBLATT:

11 Q Tell the members of the jury how long have you lived in
12 Queens?

13 A 45 years.

14 Q And who do you currently live with?

15 A My daughter, Christine.

16 Q How old is Christine?

17 A 19.

18 Q And is she in college?

19 A Yes.

20 Q Do you presently work?

21 A Yes.

22 Q What type of work do you do?

23 A Medical claims.

24 Q And how long have you been involved in medical claims?

25 A Twelve years.

1 Q Do you know someone by the name of Sana Awan?

2 A Yes.

3 Q Who's she?

4 A She is Christine's friend.

5 Q And prior to June 23, 2008, did you have any
6 relationship with her?

7 A She was just Christine's friend.

8 Q Can you describe to the members of the jury the
9 relationship that Christine and Sana had prior to June 23rd?

10 MR. BANDELLI: Objection, your Honor.

11 THE COURT: Overruled.

12 MR. ROSENBLATT: You can answer.

13 A They were just -- they went to school together.

14 Q Prior to June 23, 2008, had Sana ever been in your
15 home?

16 A Twice.

17 Q And had you ever been inside Sana's home?

18 A No.

19 Q Had you ever been outside it?

20 A Yes.

21 Q What was that for?

22 A I dropped her off.

23 Q Do you know someone by the name of Harold Gopaul?

24 A Yes.

25 Q And how do you know him?

1 A Sana's stepfather.

2 Q Do you see him in the courtroom today?

3 A Yes.

4 Q Can you point and identify an article of clothing he is
5 wearing?

6 A Striped shirt and dark tie.

7 MR. BANDELLI: Indicating my client, your Honor.

8 THE COURT: The record will indicate the witness
9 has identified the defendant.

10 MR. ROSENBLATT: Thank you, your Honor.

11 Q Prior to June 23, 2008, did you have any relationship
12 with the defendant?

13 A No.

14 Q Have you ever met him?

15 A Once at school.

16 Q I want to turn your attention to June 23, 2008 at
17 approximately 8:30 in the evening.

18 Where were you?

19 A Sleeping.

20 Q And when you were sleeping, what happened?

21 A My daughter woke me up.

22 Q And don't tell us what anyone said, but what did she
23 do?

24 A She handed me the phone.

25 Q And who was on the other line?

1 A Sana.

2 Q Did you speak to her?

3 A Yes.

4 Q Approximately how long were you on the phone with Sana
5 for?

6 A Less than three minutes.

7 Q Okay. After that conversation, what did you do?

8 A I dressed and left my house.

9 Q Where did you go?

10 A To meet Sana.

11 Q Where did you meet her?

12 A 80th Avenue, 238th Street.

13 Q How far is that from your home?

14 A About six blocks.

15 Q And approximately how far is that from where Sana was
16 living back then?

17 A It's probably about the same.

18 Q And when you -- Did there come a point in time when you
19 were at 238th and -- did you say 88th?

20 A 88th Avenue.

21 Q -- that you observed Sana?

22 A Yes.

23 Q And how did she appear when you saw her?

24 A She was scared. She was nervous. Running. She had a
25 bag with her.

1 Q Okay. And when you saw her, what did you do?

2 A I told her to get inside the car.

3 Q And did she in fact get in your car?

4 A Yes.

5 Q Where did you go?

6 A I drove to Hillside Avenue and by Hollywood Video,
7 stopped to make a phone call.

8 Q And who did you call?

9 A My brother.

10 Q Okay. And what was the reason that you called your
11 brother?

12 MR. BANDELLI: Objection, your Honor.

13 THE COURT: Overruled.

14 A I called him because I had an underage child, not mine,
15 in the car and I didn't want to be in trouble for it.

16 Q Okay. What type of work is your brother in?

17 A Law enforcement.

18 Q Did you speak to him?

19 A No.

20 Q What did you do after that?

21 A I called his fiance.

22 Q And what type of work does she do?

23 A Federal agent.

24 Q And did you speak to her?

25 A Yes.

1 Q After having that conversation with your brother's
2 fiancée, where did you go?

3 A To the 105 precinct.

4 Q And do you remember approximately on June 23rd what
5 time you arrived at the precinct?

6 A Can't be exact, but I'm going to say a little after
7 9:00.

8 Q Okay. And when you arrived at the precinct, what did
9 you do?

10 A I went inside to get a police officer to come talk to
11 Sana in the car.

12 Q Where was -- Did Sana remain in the car?

13 A Yes, with Christine.

14 Q And did there come a point in time when you got an
15 officer and brought her or him to the car where your --

16 A Yes.

17 Q -- daughter and Sana was?

18 A Yes.

19 Q Do you remember that officer's name?

20 MR. ROSENBLATT: Well, withdrawn.

21 Q Was it a male or female officer?

22 A Female.

23 Q And when the officer came to the car, what happened
24 then?

25 A She spoke to Sana, then we all went into the precinct.

1 Q When you went into the precinct, where did Sana go?

2 A To the back room on the first floor.

3 Q Did you go into that room?

4 A No.

5 Q Who went into the room?

6 A Sana went with the officer. We waited outside.

7 Q Okay. And did there come a point in time when you left
8 the ground level of the precinct and went upstairs?

9 A Yes.

10 Q And what was the purpose of going upstairs?

11 A We went up to the detective squad.

12 Q Okay. And did you go up there?

13 A Yes.

14 Q Do you remember how many hours it was after you were
15 downstairs that you went upstairs, approximately?

16 A It was a long time. It was like after 3:00 A.M.

17 Q Approximately?

18 A Uh-huh.

19 Q And when you went up there, who was upstairs?

20 A Detective Shulman.

21 Q Was there any other detectives working at around that
22 time?

23 A Yes.

24 Q And when you got upstairs you said approximately
25 3:00 A.M., who spoke to Detective Shulman?

1 A Sana.

2 Q And were you present for that conversation?

3 A Not for the conversation, no.

4 Q Okay. Where did they have that conversation?

5 A In another room.

6 Q Okay. Where did you stay?

7 A We stayed at one of the detective's desks that were
8 empty.

9 Q Okay. Did there come a point in time some time after
10 3:00 A.M. where you left the detective squad and went
11 downstairs?

12 A Uh-huh.

13 Q Approximately what time was that?

14 A It was after 4:00.

15 Q And what was the purpose after 4:00 in the morning that
16 you left the detective squad office and went downstairs?

17 A So I could have a cigarette.

18 Q And when you went downstairs to have a cigarette, tell
19 the jury what you saw.

20 A I went down with the ACS worker, and as I was turning
21 the corner steps, Mr. Gopaul was coming in.

22 Q And when you saw Mr. Gopaul coming into the precinct
23 sometime after 4:00 A.M., what did you do?

24 A I motioned to the police officers that that was him and
25 I stood behind so he didn't see me.

1 Q And when you motioned to the police officers, what did
2 they do?

3 A They took Mr. Gopaul and they put him against the wall
4 and they cuffed him.

5 Q Did you see that?

6 A Yes.

7 Q After you saw that sometime after 4:00 in the morning,
8 what did you do?

9 A I went back upstairs.

10 Q How come?

11 A I didn't want him to see me.

12 Q Okay. From the time that you arrived in the precinct
13 until approximately 11:00 in the morning the next day, that is
14 June 24, 2008, did you leave the precinct at all?

15 A I left probably about 7 o'clock to go change and get
16 Sana a change of clothes.

17 Q Did there come a point in time when you left the
18 precinct again?

19 A When we --

20 Q In the afternoon on June 24th?

21 A When Sana was taken to the hospital.

22 Q Where did you go?

23 A To the hospital.

24 Q Do you remember approximately, if ever Sana's mother
25 arrived at the precinct?

1 A Yes.

2 Q Approximately what time was that?

3 A It was 9 o'clock.

4 Q In the morning?

5 A A.M.

6 Q On June 24th?

7 A Uh-huh.

8 Q Ms. Alioto, did there come a point in time in 2008 when
9 ACS gave you custody of Sana?

10 A Yes.

11 Q And do you remember when that was?

12 A July 3rd.

13 Q Of 2008?

14 A Right.

15 Q And when they gave you custody, what was your title?

16 MR. BANDELLI: Objection, judge.

17 THE COURT: Overruled.

18 A I was her foster mother.

19 MR. ROSENBLATT: I have nothing further, your
20 Honor.

21 Thank you.

22 THE COURT: Mr. Bandelli.

23 MR. BANDELLI: Thank you, Judge.

24 Good afternoon, Ms. Alioto.

25 THE WITNESS: Hello.

1 MR. BANDELLI: Hi. My name is Stanford Bandelli.
2 I represent Harold Gopaul.

3 I have some questions I'm going to ask you. If
4 you don't know the answer, just tell me you don't know.

5 THE WITNESS: Uh-huh.

6 MR. BANDELLI: Okay. If you don't understand the
7 question, let me know, I'll try to rephrase it; all right?

8 THE WITNESS: Okay.

9 CROSS-EXAMINATION

10 BY MR. BANDELLI:

11 Q You testified earlier that you met Mr. Gopaul at the
12 school previously?

13 A That's right.

14 Q When was that?

15 A The kids had a art show or something. They were
16 juniors, so I don't know when it was.

17 Q You don't know when it was?

18 A It was sometime in the spring. It was their junior
19 year.

20 Q So it would have been spring of 2008 then?

21 A No, 2007 -- right, 2008 --

22 Q When did your daughter graduate high school?

23 A She graduated last year. This is her second year going
24 into college.

25 Q So junior year --

1 A 2008.

2 Q -- would have been 2008, correct?

3 A 2008.

4 Q When in the spring of 2008 was this art fair?

5 A I don't remember.

6 Q You don't remember when in the spring it was?

7 MR. ROSENBLATT: Objection, asked and answered.

8 A No.

9 THE COURT: Overruled.

10 Q What was it actually they were doing with regards to
11 art?

12 MR. ROSENBLATT: Objection. Objection as to the
13 relevance, an art show.

14 THE COURT: Sustained.

15 MR. BANDELLI: Judge, he brought it up on his
16 direct. I am certainly allowed the opportunity to explore
17 it.

18 THE COURT: It's not relevant.

19 MR. BANDELLI: Well, I would like to make a
20 record, Judge.

21 THE COURT: At the proper time.

22 Continue your examination.

23 Q Who else was present with Sana and Mr. Gopaul at the
24 time of this art show?

25 A The two children, Harold's two children his wife,

1 Jenny.

2 Q Did they seem pretty happy to be there?

3 MR. ROSENBLATT: Objection.

4 THE COURT: Did they seem pretty happy to be
5 there?

6 Q Did they seem happy to be there?

7 MR. BANDELLI: How is that --

8 THE COURT: Can you answer that?

9 A I don't know if they were happy.

10 THE COURT: Thank you.

11 Next question.

12 Q Well, did you interact with them?

13 MR. ROSENBLATT: Objection, Judge. As to the
14 happiness or unhappiness at an art show.

15 THE COURT: That's not the question.

16 Did you interact with them?

17 Overruled.

18 A I just talked to the mom a little bit and then Harold
19 made a comment to me and that was the end of the conversation.

20 Q Nobody said anything about sexual abuse at that time,
21 did they?

22 A No.

23 Q Okay. Good.

24 Now you said that you made a series of phone calls
25 after you picked Sana up in your car; is that correct?

1 A Two.

2 Q You said the reason you had made this series of phone
3 calls was you didn't want to get in trouble for having an
4 underage child in the car?

5 A That's right.

6 Q Is that correct; Sana was 17 years old at the time?

7 A Yes.

8 Q What type of trouble could you be in for driving a 17
9 year old at 9 o'clock at night?

10 A She is not my child.

11 Q Okay.

12 A Okay, so I don't want my child in somebody else's car.
13 I don't know the law and I didn't want her -- I didn't want to
14 be responsible for somebody else's child.

15 Q Well, didn't you actually take over parental obligation
16 from this family at some point?

17 MR. ROSENBLATT: Objection.

18 THE COURT: Sustained.

19 Q She didn't want to be responsible --

20 THE COURT: Sustained.

21 MR. BANDELLI: Judge, can we approach, at least?

22 THE COURT: Mr. Bandelli.

23 MR. BANDELLI: Can't we?

24 THE COURT: Mr. Bandelli.

25 MR. BANDELLI: Judge, I should be allowed to ask

1 these questions.

2 THE COURT: Come up here, please.

3 (Whereupon, a conference was held between all
4 counsel and the Court on the record at the side-bar.)

5 THE COURT: Would you please read back the last
6 two questions and answers?

7 (Whereupon, the requested portion of the testimony
8 was read back.)

9 THE COURT: She just makes a statement like that.
10 I make the rulings.

11 MR. BANDELLI: I understand.

12 THE COURT: You don't have to like them, abide by
13 them. Don't make any statements.

14 MR. BANDELLI: I should be able to ask those
15 questions.

16 THE COURT: All right. Don't question my rulings.

17 MR. BANDELLI: With all due respect, Judge, there
18 are points that need to be made.

19 THE COURT: You do not state in front of the jury
20 that you should be able to ask questions.

21 MR. BANDELLI: I asked --

22 THE COURT: I made a ruling.

23 MR. BANDELLI: I asked for a sidebar initially,
24 you told me to move on.

25 THE COURT: I told you that at the proper time --

1 MR. BANDELLI: Okay. I understand your position,
2 Judge.

3 THE COURT: I don't think you do because you don't
4 say, "I should be able to ask those questions."

5 MR. BANDELLI: Well --

6 THE COURT: Do you get it yet?

7 MR. BANDELLI: I understand exactly what you're
8 saying, Judge.

9 THE COURT: Don't do it again.

10 MR. BANDELLI: I understand.

11 THE COURT: Now you can make your record.

12 MR. BANDELLI: My record is that she testified
13 that the reason why she made phone calls is that she didn't
14 want to get in trouble for driving around a child. She
15 didn't know the law and she didn't want to be responsible
16 for somebody else's child.

17 You know, the People's direct, they brought out
18 that she did just the opposite, she took responsibility for
19 this child.

20 THE COURT: That's a whole different concept.

21 MR. BANDELLI: In what sense?

22 THE COURT: That is that she was appointed by ACS
23 as the foster parent sometime in the future, in July.

24 MR. BANDELLI: A week later.

25 THE COURT: In July.

1 MR. BANDELLI: A week later.

2 THE COURT: She did not know the law about having
3 someone else's child in her car on June 23rd.

4 MR. BANDELLI: What is the law about having a 17
5 year old kid in your car at 9 o'clock, Judge?

6 MR. ROSENBLATT: It's irrelevant.

7 THE COURT: She said she didn't know the law.

8 MR. BANDELLI: Credibility of this witness.

9 THE COURT: That is knowing to do --

10 MR. BANDELLI: Has to do with being truthful about
11 what's going on.

12 THE COURT: Has nothing to do with the credibility
13 of the witness.

14 MR. BANDELLI: I respectfully disagree.

15 THE COURT: I sustained the objection.

16 (Whereupon, all parties returned from the sidebar
17 and the following took place:)

18 MR. BANDELLI: May I, Judge?

19 THE COURT: Proceed.

20 MR. BANDELLI: Thank you, sir.

21 Q So at some point you head over to the 105 precinct; is
22 that correct?

23 A Yes.

24 Q Did you know where the 105 precinct was?

25 A Yes.

1 Q How did you know?

2 A I lived there my whole life.

3 Q Did you have occasion to go to the 105 precinct in the
4 past?

5 MR. ROSENBLATT: Objection.

6 THE COURT: Sustained.

7 Q You went to the 105 precinct and an officer came out
8 and brought everybody -- you went in first, you went in first
9 and came out with an officer?

10 A Yes.

11 Q Is that what happened?

12 Who did you speak to when you went inside?

13 A Somebody who was at the front desk, an officer at the
14 front desk.

15 Q Was it a male or female?

16 A There was one male and one female.

17 Q Okay. Do you know anybody's name?

18 A I don't recall their names.

19 Q Do you know what time it was?

20 A It was about ten after 9 o'clock.

21 Q And then after you walked out, you came out with
22 another officer or --

23 A Female officer.

24 Q He followed you out or came out with you?

25 A Came out with me.

1 Q Brought Sana back into the precinct?

2 A Yes.

3 Q And she brought --

4 Now some time later the next day, early morning, you
5 said that you saw my client, Mr. Gopaul, come into the precinct;
6 is that correct?

7 A Yes.

8 Q Did you see him pull up into the lot?

9 A No.

10 Q You saw him walking up the stairs into the precinct?

11 A I was coming down the stairs, he was walking in the
12 front door.

13 Q Did you say hello?

14 A No.

15 Q So you just walked past him and he walked?

16 A I didn't walk past him. I stopped on the steps, I went
17 back upstairs after I motioned that that was him.

18 Q So what you did was you were coming out, then you saw
19 him walking up the stairs, then you went back into the precinct?

20 A No. I was up at the detective squad coming down to
21 have a cigarette.

22 Q Oh, okay.

23 A And as I turned the corner, that's where the front door
24 is to the 105th, Mr. Gopaul was walking in. You see two police
25 officers standing right there, it's a desk. As I'm turning the

1 corner, I see him. I motioned that that's Mr. Gopaul, I go back
2 up.

3 Q Got you.

4 So he was coming in by himself at the time?

5 A Yes.

6 Q He wasn't in handcuffs or anything like that?

7 A No.

8 Q Was he -- And there were no police officers around when
9 he walked into the precinct; is that correct?

10 A There was police officers to the side at the desk.

11 Q In other words, there were no police officers standing
12 on either side of him?

13 A No.

14 Q He walked in on his own?

15 A Yes.

16 Q You went back and decided to tell who that that was the
17 guy?

18 A I motioned from the stairs to the police officers at
19 the front desk that that was Mr. Gopaul.

20 Q Who did you motion to?

21 A There was police officers standing at the front desk.

22 Q Did you have an opportunity --

23 A As he --

24 Q Did you have an opportunity to speak with those police
25 officers?

1 A No. I was there all night. They knew what I was there
2 for --

3 Q Okay. So who were they?

4 A I don't know. They were police officers that are in
5 the precinct.

6 Q Okay. How many police officers were in the precinct?

7 A How many police officers at the front door?

8 Q On the ground floor.

9 A No, right where that area was, probably about four or
10 five.

11 Q And you said you saw them take him and throw him up
12 against the wall?

13 MR. ROSENBLATT: Objection.

14 MR. BANDELLI: That was her testimony.

15 THE COURT: Sustained.

16 Q You saw him --

17 A Put him up against the wall.

18 Q -- put him up against the wall.

19 How did they grab him, put him up against the wall?

20 A By the back of his arm.

21 Q By the back of his arm.

22 How were how many officers grabbed him?

23 A One.

24 Q Just one?

25 A One.

1 Q You said "officers," you didn't say "officer"?

2 MR. ROSENBLATT: Objection.

3 THE COURT: Overruled. You can answer.

4 A There was one officer that put him up against the wall
5 and put him in cuffs.

6 Q Okay. And what did he do with him after he put him in
7 cuffs?

8 A I went back upstairs so I don't know where he went from
9 there.

10 Q You just happened to come downstairs, you saw him walk
11 in (indicating), you just walked off?

12 A I didn't do it like that, but I came down with the ACS
13 worker to have a cigarette and he walked in.

14 Q The ACS worker, was this a female or a male?

15 A A male.

16 Q Did the ACS worker talk with you about this as well?

17 A Talk about what?

18 Q About what was going on?

19 A No. He was just escorting me down to have a cigarette.

20 Q An ACS worker was just --

21 A It was the middle of the night. I just said I want to
22 go have a cigarette. It was not really a big deal to go
23 downstairs.

24 Q I wasn't there.

25 A Okay. It wasn't.

1 Q So I'm just trying to understand what happened, okay?

2 A Uh-huh.

3 Q I apologize. All right.

4 Now you came downstairs with an ACS worker who was
5 escorting you out to have a cigarette?

6 A That's right.

7 Q Now, were you wearing a watch at that time?

8 A I wouldn't remember. I don't know. I always have my
9 cell phone with me.

10 Q How do you know what time it was when you were walking
11 down the stairs?

12 A It was after 4 o'clock because I had to get up for
13 work. That was my time that I get up for work so I knew it was
14 way after 4 o'clock.

15 Q You were at this precinct from 9 o'clock on, right?

16 A Yes.

17 Q You didn't leave the precinct, right?

18 A No.

19 Q You don't know if you had a watch with you, right?

20 A No, I don't remember wearing a watch.

21 THE COURT: Sustained, sustained.

22 Q I am trying to understand how you know it's after
23 4 o'clock if you have been at the precinct --

24 A Because I said to the detective I get up at 4:30 to go
25 to work, I have to go soon.

1 Q So if the ACS worker said -- the ACS worker said
2 Mr. Gopaul walked into the precinct and came in at 3:30 A.M.,
3 the ACS worker would be wrong?

4 MR. ROSENBLATT: Objection.

5 THE COURT: Sustained.

6 Q After you went back upstairs, who did you speak with
7 next?

8 A Who did I speak with?

9 Q Uh-huh.

10 A Detective Shulman.

11 Q And did you speak to any other detectives up there?

12 A No.

13 Q No.

14 The only detective you spoke to was Detective Shulman?

15 A Basically.

16 Q Did you tell him also that Mr. Gopaul had just been
17 placed in handcuffs downstairs?

18 MR. ROSENBLATT: Objection.

19 THE COURT: What's the basis for the objection?

20 MR. ROSENBLATT: Calls for hearsay, your Honor.

21 THE COURT: Overruled.

22 A Could you ask me it again?

23 Q Did you tell Mr. Shulman that you had just seen
24 Mr. Gopaul taken into handcuffs?

25 A I don't believe I said it like that. I said Mr. Gopaul

1 was here.

2 Q So you just went in and told him Mr. Gopaul is here.

3 Have you had previous contact with the criminal justice
4 system?

5 MR. ROSENBLATT: Objection.

6 THE COURT: Sustained.

7 Q Well, isn't it true that you have an Order of
8 Protection against a man?

9 MR. ROSENBLATT: Objection.

10 THE COURT: Accused of domestic violence.

11 Sustained.

12 MR. ROSENBLATT: Objection.

13 MR. BANDELLI: May we have a sidebar, Judge?

14 THE COURT: Approach the bench.

15 MR. BANDELLI: Thank you.

16 (Whereupon, a conference was held between all
17 counsel and the Court on the record at the side-bar.)

18 THE COURT: You wanted a sidebar.

19 MR. BANDELLI: I am asking for the sidebar.

20 I think the question is --

21 THE COURT: Mr. Bandelli, the reason we have these
22 sidebars is so we do it outside the hearing of the jury.

23 MR. BANDELLI: All right.

24 THE COURT: If you don't lower your voice, they
25 are going to hear anything you say. Defeats the purpose of

1 a sidebar.

2 Go ahead.

3 MR. BANDELLI: Goes to the credibility of this
4 witness whether or not she has any biases, okay?

5 The fact of the matter is she has got a domestic
6 violence incident going on. It's listed in the information
7 I was provided by ACS. She has an Order of Protection.

8 I have a right to make an argument that the reason
9 she did this is because of her bias in terms of domestic
10 violence and her feelings about men in general.

11 THE COURT: Sustained.

12 MR. BANDELLI: Note my exception.

13 THE COURT: You have your exception.

14 (Whereupon, all parties returned from the sidebar
15 and the following took place:)

16 THE COURT: Proceed.

17 Q At some point, you took legal guardianship of Sana?

18 A Yes.

19 Q And she was living at your house?

20 A Yes.

21 Q And did her boyfriend come to visit you while she was
22 living there?

23 A Sometimes.

24 MR. BANDELLI: Nothing further, Judge.

25 MR. ROSENBLATT: Just briefly, your Honor.

1 THE COURT: Briefly.

2 REDIRECT EXAMINATION

3 BY MR. ROSENBLATT:

4 Q Ms. Alioto, you were just questioned about a boy
5 visiting Sana when you had legal custody?

6 A Yes.

7 Q Did you have rules in regards to Sana and the boy that
8 had come to your house back in 2008 into 2009?

9 A Yes.

10 Q Tell the members of the jury about those rules.

11 A There was no -- they weren't allowed to be anywhere but
12 the living room, the dining room, the kitchen. They weren't
13 allowed to be in my home when I'm not there. They had to
14 follow -- my daughter included -- there was rules they had to
15 follow, and they did.

16 MR. ROSENBLATT: I have nothing further.

17 THE COURT: Any recross?

18 MR. BANDELLI: Nothing further, Judge.

19 THE COURT: Thank you, Ms. Alioto.

20 THE WITNESS: Thank you.

21 THE COURT: You may step down.

22 (Whereupon, the witness left the witness stand.)

23 THE COURT: Counsel approach, please.

24 (Whereupon, a conference was held between all
25 counsel and the Court on the record at the side-bar.)

1 THE COURT: You wanted to make a record about the
2 next witness.

3 Go ahead.

4 MR. BANDELLI: Judge, just, again, you know, I
5 have emphasized on more than one occasion already, the fact
6 of the matter is they could have done a better job getting
7 more specific dates.

8 You're not supposed to be using an expert to solve
9 the problems in your case, and that's essentially what they
10 are trying to do here. So, you know, with regard to the
11 blending and the fact -- which also didn't come in during
12 direct or cross -- I don't see that they are worthy of
13 expert testimony at this point. Just open up a whole
14 Pandora's box of stuff that isn't even an issue in this
15 case.

16 THE COURT: Mr. DA, do you wish to respond?

17 MR. ROSENBLATT: No, I believe we be labored this
18 point enough, Judge.

19 MR. BANDELLI: I could belabor it another half
20 hour if you would like.

21 THE COURT: I will allow this witness to testify
22 as to the study of victims of this type of abuse. The fact
23 that there is often a delay in reporting, the fact that
24 there may be a lack of affect when they testify, the fact
25 that they may have a problem remembering dates.

1 As far as the term blending --

2 MR. ROSENBLATT: It's a known term with all
3 psychologists too throughout the city; study of psychology.
4 Judge, it would be like asking a lawyer to explain hearsay.
5 It's a common term.

6 MR. BANDELLI: I don't think it's quite that
7 common, but --

8 THE COURT: You go out and tell your expert to the
9 limitations on his testimony.

10 MR. ROSENBLATT: Just so I understand --

11 THE COURT: I don't want to hear anything about
12 blending.

13 MR. ROSENBLATT: Nothing about -- sorry, Judge?

14 THE COURT: About blending.

15 MR. ROSENBLATT: You don't want to hear about it.

16 THE COURT: The jury is not going to hear anything
17 about blending.

18 Okay. He can testify as to the studies done, that
19 he was aware of about the fact that there is a delay in
20 reporting, there may be a lack of affect when the person
21 testifies and they may have a problem remembering dates.

22 As far as --

23 MR. ROSENBLATT: The whole concept.

24 THE COURT: -- as far as blending --

25 MR. ROSENBLATT: The whole concept of dates is

1 based upon this idea that events blend together, that's what
2 the study says, that's what the research shows; the events
3 blend together when they happen over time. When it's the
4 same thing happening over time, the events blend together.

5 THE COURT: And did your witness have a problem
6 remembering the incidents in front of this jury?

7 MR. ROSENBLATT: She described the specific -- My
8 witness will testify that you can remember the who, you can
9 remember the what and the where, but you can't remember the
10 specific details. That's what this is because that's what
11 she testified to.

12 THE COURT: I don't remember your witness having a
13 problem with defects.

14 MR. ROSENBLATT: Judge, most respectfully, after
15 June of '06 through 2008, she said she was only able to
16 recall one specific thing which happened in the month of
17 May. Other than that, she said she doesn't even remember
18 specifics over that entire time period.

19 That's the whole idea. The reason she is unable
20 to do so is because of that she said it happened over time.
21 It's the same thing. It happened in her home, that's the
22 idea of blending.

23 THE COURT: You have 53 counts in this indictment.

24 MR. ROSENBLATT: Judge 50, we are currently --
25 yes, I do.

1 THE COURT: You feel your witness hasn't made out
2 some of those counts?

3 MR. ROSENBLATT: Whether I believe that or whether
4 I believe all those counts are going to go to the jury is a
5 different story. I don't believe I am going to ask the
6 Court to submit all those counts to the jury.

7 THE COURT: Based on what reason?

8 MR. ROSENBLATT: Based upon the testimony that
9 came out, her inability to recall specific incidents. I am
10 going to base the testimony -- base my summation, base the
11 verdict on the specific acts which she described, and if the
12 jury supersedes a count from May to June of 2005 and then
13 there is no count until May of '06 and then no count until
14 January of '08, they are left to wonder what the heck is
15 going on here.

16 MR. BANDELLI: Judge, just so you know, I don't
17 recall him asking her whether or not she could recall any
18 specific dates. In fact, the questions were leading and he
19 directed her to specific dates.

20 MR. ROSENBLATT: Judge --

21 MR. BANDELLI: If she recalled everything he asked
22 her about.

23 MR. ROSENBLATT: Judge, what --

24 MR. BANDELLI: Up until now we are down to more
25 precise dates at times.

1 MR. ROSENBLATT: Judge, were you permitting me to
2 question my witness on the concept of blending? The ability
3 to recall specific dates and not recall others is blending.

4 I just would like the witness to be able to
5 utilize the terminology that's appropriate with the concept.

6 You are permitting just not the term, and perhaps
7 it's because I didn't explain it clearly enough, but that
8 concept is what you allowed me to do.

9 THE COURT: That's called blending, the fact the
10 witness can't remember --

11 MR. ROSENBLATT: Yes.

12 THE COURT: -- certain dates --

13 MR. ROSENBLATT: Yes.

14 THE COURT: -- as opposed to other dates --

15 MR. ROSENBLATT: Correct.

16 THE COURT: How long do you anticipate your direct
17 will be with this doctor?

18 MR. ROSENBLATT: I hope to be under 35 minutes.

19 (Whereupon, a discussion was held off the record.)

20 THE COURT: I will allow the witness to testify in
21 that manner.

22 MR. BANDELLI: Please note my exception.

23 THE COURT: You have your exception.

24 MR. BANDELLI: Thank you, your Honor.

25 (Whereupon, all parties returned from the sidebar

DR. DON LEWITES - People - Direct

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1 and the following took place:)

2 THE COURT: You may call your next witness.

3 MR. ROSENBLATT: People call Dr. Don Lewittes.

4 (Whereupon, the witness entered the witness
5 stand.)

6 D R . D O N L E W I T E S , after having first been duly
7 sworn was examined and testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: Thank you. Please be seated.

10 THE OFFICER: People call Dr. Don Lewittes, last
11 name L-E-W-I-T-T-E-S, resident of Nassau County.

12 THE COURT: You may proceed, Mr. DA.

13 MR. ROSENBLATT: Thank you, your Honor.

14 DIRECT EXAMINATION

15 BY MR. ROSENBLATT:

16 Q Doctor, what type of work are you involved in?

17 A I am a forensic and clinical psychologist. I work in
18 offices in New York and the City and in Nassau County with
19 specific issues that are involved in legal cases. That's the
20 forensic side of my practice.

21 I routinely evaluate children and adolescents for
22 the -- for Children Services here in Queens and throughout New
23 York City.

24 In terms of family, issues of allegations of child
25 sexual abuse, I also work in the family courts and also in civil

1 courts in the issue where psychologists may have something to
2 offer in a legal matter.

3 Then I also have a clinical practice where it would be
4 more along the lines of what a normal or regular problem in
5 living might be such as anxiety; relationship problems like
6 divorce, depression; childhood issues such as attention deficit
7 disorder.

8 And I am a forensic and clinical psychologist.

9 Q For how many years have you been involved in this type
10 of work?

11 A Approximately 30.

12 Q And can you tell the members of the jury briefly about
13 your educational background?

14 A I did my undergraduate work at New York University. I
15 received a Bachelorette degree from NYU majoring in psychology;
16 did graduate level work at the State University of New York at
17 Albany; and I received a Ph.D. in clinical psychology from SUNY
18 at Albany.

19 Q Have you held any faculty appointments?

20 A Yes. Following my internship which was at Rutgers
21 Medical School which is in Piscataway, New Jersey, I was
22 licensed.

23 But in terms of faculty appointments, I was a clinical
24 instructor in the department of psychiatry on a full-time basis
25 at Albany Medical School.

1 I have also been a clinical affiliate professor of
2 psychology here in Queens, New York at St. John's University in
3 the department of psychology.

4 And I have also had a faculty relationship with Malloy
5 College which is in Nassau County where we train professionals
6 in the area of child and adolescent sexual abuse.

7 Q Doctor, have you had the opportunity over the course of
8 your career to evaluate adolescents who have alleged to have
9 been sexually abused by an adult?

10 A Yes.

11 Q And can you approximate how many of those adolescents
12 that you have examined or evaluated?

13 A Over the past 30 years, it would be over 1000.

14 Q And have you evaluated both boys and girls?

15 A Yes, I have, but the majority of both, patients and
16 those who I have evaluated, are as per the literature, within
17 the norms for the majority of females, much lower percentage are
18 males.

19 Q Have you previously been qualified as an expert in
20 courts of law in both this county and this city in the field of
21 clinical psychology and adolescent sexual abuse?

22 A Yes, I have been qualified as an expert in all of the
23 counties of New York, as well as outside New York State in
24 various counties.

25 Q Have you ever been denied expert status by a Court?

1 A No.

2 MR. ROSENBLATT: Your Honor, at this time I would
3 offer Dr. Lewittes as an expert in the field of clinical
4 psychology and adolescent sexual abuse.

5 THE COURT: Do you wish to voir dire?

6 MR. BANDELLI: Yes.

7 THE COURT: Proceed.

8 MR. BANDELLI: Good afternoon, Doctor.

9 THE WITNESS: Good afternoon, sir.

10 VOIR DIRE EXAMINATION

11 BY MR. BANDELLI:

12 Q You said you had evaluated thousands --

13 A No, I said over 1,000.

14 Q Over 1,000?

15 A Uh-huh.

16 Q More than 1,000?

17 A Over 30 years, yes.

18 Q To determine whether or not there was sexual abuse; is
19 that correct?

20 A No. Primarily the adolescents who I have evaluated, it
21 was not for any kind of determination, it was a clinical
22 evaluation having to do with a diagnostic issue.

23 There are those who, in the practice for ACS over the
24 last ten years, I have had a contract where they have asked me
25 my opinion about allegations. But I have never determined

1 whether or not sexual abuse occurs because that's a factual
2 matter and I can only give opinions about diagnostic issues or
3 explanatory issues. I don't talk about facts.

4 Q So of those more than a thousand studies you've done,
5 you can never say conclusively that there was a finding of
6 sexual abuse; is that correct?

7 MR. ROSENBLATT: Objection, Judge. This is an
8 improper voir dire.

9 THE COURT: Sustained.

10 MR. BANDELLI: Nothing further, Judge. I object.

11 THE COURT: The witness may testify as an expert
12 in the field of clinical psychology and adolescent sexual
13 abuse.

14 Proceed.

15 DIRECT EXAMINATION

16 BY MR. ROSENBLATT:

17 Q Dr. Lewittes, have you treated or examined a child by
18 the name of Sana Awan?

19 A No.

20 Q Are you here to diagnose her in the clinical sense?

21 A No.

22 Q Are you here to discuss a pattern of behavior that's
23 been applied in the evaluation and treatment of those who allege
24 to have been sexually abused as adolescents?

25 A In a general sense, in terms of reporting what the

1 literature talks about, groups of women and adolescents, yes;
2 but nothing specifically having to do with this case or any
3 matter that is concrete.

4 Q Can you describe the phases or stages that your
5 research speaks of in regards to that pattern of behavior that's
6 applied?

7 A Well --

8 MR. BANDELLI: Just, he could specify which
9 research he is referring to.

10 THE COURT: Tell the jury what research.

11 A The specific research that I'm identifying is
12 associated with Dr. Susan Sgroi, s-G-R-O-I. She is one of the
13 forefathers of the field and pattern called the intra --
14 I-N-T-R-A, in the family child and adolescent sexual abuse
15 syndrome.

16 It specifically relates to adolescents where there are
17 allegations that there have been known perpetrators,
18 relationships as opposed to other kinds of sexual assault or
19 abuse.

20 Q And what are those specific phases or stages that the
21 research speaks of?

22 A Well, again, the research talks in general terms.
23 Every case is different, but in general, explanatory language,
24 the first phase that is discussed is called the "engagement
25 phase." That means that in the normal course of business of a

1 family, an adult who has access and opportunity and who has
2 authority and status in that family system doesn't need to be a
3 biological relative, engaged in child -- what would be child
4 protective care. Obviously, just living together being a
5 parent, being an adult, and they engage them in what was
6 expected by the adolescent to be a positive or a helpful
7 relationship and they change the relationship. That is, they go
8 from protective to sexually, in some way abusive treatment. So
9 engagement is where the child or adolescent is tricked, if you
10 will, into believing this person is to be trusted, and after
11 that, they form some kind of sexual contact with the child for
12 the adult's gratification.

13 The sexual content may be more extreme or it may be
14 more superficial such as just fondling or touching, or it may
15 involve some form of actual penetration. Each case is different
16 the numbers of times, the situations, every case is different.

17 The most important issue in family sexual abuse is
18 usually there is a secrecy stage. The person who puts
19 adolescents in a situation where nobody else can see or nobody
20 else is there to support them, the adolescent often feels that
21 they have a dirty little secret that they have been dragged in a
22 situation and they are afraid both for themselves and also what
23 it would mean for the family if they told. In other words, this
24 is a intrafamilial in the family multi-dynamic issue, which is
25 the adolescent is related to people who care about this adult

1 male and that weighs heavy in terms of talking. So from
2 secrecy, we get a delay.

3 Normally when we have a trauma, we expect adolescents
4 to cry out. If an adolescent had their pocketbook stolen, fell
5 down a flight of stairs, physical trauma or some kind of
6 property loss, you would expect immediate cry for help.

7 Sexual trauma is different, especially for young
8 females. They don't have the worldly experience because they
9 are conflicted about what would happen to them if they did tell.
10 They often don't cry out for help.

11 So delay becomes the next stage which could be years
12 before they will ever tell based upon the psychological
13 intention and pressure they feel in terms of keeping this
14 secret. For those who actually go through the disclosure
15 phase -- not all of them do -- then there is the issue of how
16 does the family respond to them and how do they feel about the
17 memories; meaning, that sometimes we have flashbacks, we have
18 posttraumatic issues, and that when they think about it and talk
19 about it, they don't want to emote or have that kind of thought
20 and feel connected because it's too upsetting. It's not just a
21 simple thing to basically talk about and move on.

22 Sexual abuse at the hands of one's relative is often a
23 life-long process that is searing and often comes back in one's
24 mind in very uncomfortable ways.

25 Q Doctor, I want to talk to you about a few of the things

1 you just mentioned; one was the secrecy into the disclosure
2 stage.

3 Given your experience and knowledge in the subject, how
4 would asking a victim to promise not to tell anybody affect
5 disclosure?

6 MR. BANDELLI: Objection, your Honor.

7 THE COURT: Overruled.

8 A Well, given the hypothetical general literature, if an
9 adolescent, for example, is asked in some way told not to tell,
10 there is a lot of pressure that reinforces their own fears if
11 they do tell, this person will in some way not be supportive,
12 that there may be conflicts in the family, that what would
13 happen to them if the other adults took the adult's side, would
14 they then be, again, vulnerable to this person who is living
15 with them who has an opportunity to continue to hurt them.

16 So telling an adolescent not to tell is a significant
17 event because the words, repeat, because it has meaning when you
18 are told not to tell someone.

19 MR. BANDELLI: Judge, if I may, I just -- when he
20 says "adolescent," can we get an age frame that he is
21 talking about?

22 THE COURT: What age group you talking about?

23 THE WITNESS: I am talking about anybody who has
24 secondary sex characteristics which is puberty, which is, it
25 would be between the ages of twelve and approximately

1 sixteen or seventeen.

2 Q Doctor, what factors might facilitate or hinder an
3 adolescent moving from that secrecy phase to the disclosure
4 stage?

5 A Different. As I said, every case is different. There
6 are some adolescent females who do not have the self esteem,
7 they don't have the personal ability to confront an issue, they
8 are more submissive, they act submissively to the questions or
9 demands of the sex and also act submissively after the fact.

10 So there could be personality variables; the family is
11 structured such if they did tell, it could have economic bearing
12 on the continuing functioning of the unit. It could be that the
13 person is frightened, that they may have been hit or they may
14 have seen this person be cruel in other ways and so, therefore,
15 fear is a big factor in not telling.

16 So there are many different family personality traits
17 and characteristics of the alleged offender which could impede
18 crying out for help.

19 Q Doctor, based upon your expertise and the research, can
20 you explain to the jury how it is difficulty-wise for an
21 adolescent to discuss intimate sexual behaviors with a group of
22 strangers?

23 MR. BANDELLI: Objection, your Honor.

24 THE COURT: Overruled.

25 A In general, adolescents are extremely private, and

1 that's a stage in development where the discussion of sexuality
2 to strangers is not viewed as something that they would easily
3 do, in general.

4 When it's an embarrassing event, it would make it even
5 more difficult for them. So from a motivational point of view,
6 an adolescent who in some sense is forced to discuss sexuality,
7 especially sexuality that's embarrassing in particular such as
8 having sex with your mother's father or having sex with your
9 brother, it would be very difficult. And for them to say it in
10 a public setting or where they don't know if the people are
11 going to be supportive or not, judgmental, which is a big fear,
12 they may try to say what they have to say with a flat or blank
13 emotion, meaning that talking about it they try to basically get
14 it out but they don't want to have a full flush of emotion.

15 When you talk to somebody about something they have
16 enjoyed and there is nothing to prohibit the emotion, you can
17 see the glee; but someone who is having a flashback or
18 remembering something that is an emotional regurgitation, it is
19 certainly an acid-like experience to remember it; therefore,
20 talking about it, you try to hold it together. Sometimes you
21 don't have any facial emotional affect at all. You just get it
22 out.

23 Q Is what you just described known in a clinical sense as
24 a flat affect?

25 A That's one term, flat affect, yes. A mask affect, more

1 mask, like in today's modern days with injections of Botox, you
2 might see an actress or something who has like a mask face
3 because there is no expression because the muscles are
4 paralyzed. That would be, from a physiological point, but
5 that's a mask. Face flat affect would be without the emotion,
6 without the animation normally associated with things,
7 especially things that have some emotional content.

8 Q Doctor, I want to talk to you, based upon your training
9 and experience, and again, your knowledge and research, do the
10 dynamics of victims who are adolescent victims of adolescent
11 sexual abuse, are they able to remember specific dates of abuse
12 when the abuse occurs over an extended period of time?

13 MR. BANDELLI: Objection, your Honor.

14 THE COURT: Overruled.

15 A Memory has a twofold process. First of all, the longer
16 the period of time that's elapsed since an alleged event, the
17 more the memory decays.

18 So the first answer is that it might be very difficult
19 for them to remember what we call peripheral details because
20 there is not that immediacy of question and answer.

21 Secondly, when you are having a traumatic event where
22 as you the accuser and circumstances are similar; the same
23 person is alleged to have done it in the same place, the abuse
24 that a person is attempting to, while it's happening, is how
25 their body is feeling, they don't tend to remember dates and

1 times. There is no reason to.

2 So what we say is, unless there is a significant date
3 that is -- such as my birthday or a significant circumstance
4 such as it happened in a different place than where it normally
5 happens, we would tend to have what's called blending which is
6 that it's thrown into a blender, and what the adolescent may
7 remember is who did what to whom; that is, who did what to whom
8 and possibly where, but the detail of exactly what happened,
9 especially with similar abuse was the lack of the ability later
10 on to retrieve.

11 When it happened or the peripheral details, for
12 example, was it raining out today, that would be something that
13 would be significant. If you went on jury duty once in three
14 years, but if you went every day on a Wednesday or Tuesday, you
15 might not remember whether or not it was raining today.

16 Q Doctor, can you explain why it is that a child would be
17 able to remember the details of the first incident of sexual
18 abuse?

19 MR. BANDELLI: Objection, your Honor.

20 THE COURT: What's the basis of your objection?

21 MR. BANDELLI: Relevance.

22 THE COURT: Overruled.

23 A Research in memory shows that primacy and recency.
24 Those are two words that often affect memory.

25 Recency means the most recent event and primacy means

1 the first event. That is, a parent, the first time you were
2 kissed by a boy, so to speak, that's a peg; but, you know, all
3 the makeout sessions in between may get blended a little.

4 I don't know if that's a fair analogy.

5 MR. BANDELLI: Objection to the use of the term
6 "blending," Judge.

7 THE COURT: Overruled.

8 A And I don't mean to minimize anything. I am just
9 trying to say the first time something happens to you, there is
10 more of a reason to remember it from a developmental, cognitive
11 point of view.

12 Q Can you explain what you mean by pegs, just a little?

13 A Peg is something to hang your hat on. Something that's
14 a cue that reminds you of a distinct issue, and so therefore, if
15 you throw your hat, so to speak, into a group of other hats,
16 there is no distinction. But if you take a peg that has your
17 name on it -- even in kindergarten, that's, you know, that's the
18 note, that's my name, I know my name, that's my box -- that's
19 what pegging is. It shows the person that there is a distinct
20 barrier or boundary. It tells the person: Focus on this.

21 That's part of what we try to do in terms of teaching
22 children early on that there is those things that you must pay
23 attention to, put those things that are just similar, or there
24 is no importance to it like a fire drill. Those things are not
25 necessarily committed to memory. We can never remember all the

1 information that would be, you know, incorporating noise with
2 important information, and the human brain could never filter
3 out what would be the important detail from the less important
4 if we were aware of everything that ever happened to us like a
5 computer is aware.

6 Q The last thing, Doctor, that I want to speak to you
7 about, is disclosure.

8 Can you talk briefly about emotional versus accidental
9 disclosure?

10 A Well, when we say that a person out cries or finally
11 makes the bridge to be able to tell somebody else, an accidental
12 disclosure means that the person didn't go on purpose to tell
13 somebody, meaning they didn't call the police officer, they
14 didn't go to an emergency room, it's because somebody stumbled
15 over it by accident either because somebody questioned them or
16 somebody may have read an e-mail or somebody may have a sexually
17 transmitted disease. Therefore, people start questioning that,
18 you know, how did this happen.

19 So the person still is not ready to talk themselves,
20 but only discloses after by accident, so to speak, somebody else
21 stumbles across it.

22 Emotional means important event. We try somehow to get
23 it outside of ourselves and we find it in some senses they were
24 particular to talk to others. But emotional disclosure means
25 you are talking to others, whoever that other is, to get it off

1 your chest, to share the information.

2 But there is no strategic element. It's not telling
3 somebody to go and call the police, it's not going to a hospital
4 and having an examination. It means catharsis, it means I need
5 to talk about it because holding it in any longer, it's like
6 being super saturated. After awhile, you can't hold any more
7 water so you talk about it.

8 But that's an emotional disclosure as opposed to
9 strategics or tactical disclosure. I am telling somebody and I
10 expect the consequence or hope for something to be done.

11 MR. ROSENBLATT: I have no further questions, your
12 Honor.

13 Thank you.

14 THE COURT: Thank you.

15 Mr. Bandelli, you my inquire.

16 MR. BANDELLI: Thank you, Judge.

17 Good afternoon, Doctor.

18 THE WITNESS: Good afternoon, Counselor.

19 MR. BANDELLI: My name is Stanford Bandelli. I
20 represent Harold Gopaul.

21 You don't know who he is, right?

22 THE WITNESS: No, I do not.

23 MR. BANDELLI: Never seen him before?

24 THE WITNESS: Never.

25 MR. BANDELLI: And I have some questions I'm going

1 to ask you. If you don't know the answer, simply say you
2 don't know; if you don't understand the question, let me
3 know, I will rephrase it. Okay?

4 THE WITNESS: Yes, sir.

5 CROSS-EXAMINATION

6 BY MR. BANDELLI:

7 Q All right. You testified you never met Sana Awan; is
8 that correct?

9 A Correct.

10 Q And you said there is a reason for that, but you have
11 no idea at this time whether she was or wasn't the victim of
12 sexual abuse; is that correct?

13 A Correct.

14 Q And you are testifying here today on behalf of the
15 prosecution, they called you as an expert in this area of
16 intrafamilial child sexual abuse?

17 A Correct.

18 Q And you are getting paid to be here today?

19 A The amount of time I spend, yes.

20 Q Okay. And would you say that testifying as an expert
21 is a source of income to you in terms of your practice?

22 A Yes.

23 Q Okay. You make money from it, right?

24 A Absolutely.

25 Q Okay. You talk about, you had mentioned Susan Santra,

1 a study by her -- I don't know if I got the name right, and I
2 apologize if I messed up the name because I am not an expert in
3 this area -- but would her study have been based on the Roland
4 Summit Study on child sexual abuse accommodations?

5 A Nothing in common.

6 Q Well, those areas you describe; secrecy and
7 helplessness and, you know, those different factors, delayed
8 conflicted disclosure, they seem to be pretty similar to the
9 ones you just described?

10 A Doctor Summit did his own independent work in
11 California and he came up with one of his major stages, it's
12 called recantation.

13 Q Uh-huh?

14 A And you talk about conflicted. The point was he
15 studied children as well, and some of his work is no longer
16 accepted, and that's why I don't talk about him, because some of
17 his work is being questioned at this time. Dr. Summit worked in
18 Connecticut. Independent of him, may have discussed similar
19 issues, but is not in any way connected to his work.

20 Q Well, isn't there a principle flaw in Dr. Summit's work
21 with child sexual abuse syndrome, evidence there is no -- and I
22 am now quoting: No evidence that it can discriminate between
23 sexually abused children and those who have experienced other
24 trauma?

25 MR. ROSENBLATT: Objection, your Honor.

1 Q Isn't there a principle flaw within the theory you are
2 proposing as a basis for your testimony here?

3 THE COURT: What's the basis of the objection?

4 MR. ROSENBLATT: Questioning him on a theory that
5 the witness has stated is improper and of no use. And he is
6 citing research that it's based on, that so it's an improper
7 question.

8 MR. BANDELLI: Let him say no, then.

9 THE COURT: Mr. Bandelli --

10 MR. BANDELLI: Well, I --

11 THE COURT: Also, I'm going to tell you --
12 Overruled.

13 You can answer the question, Doctor.

14 A There is no part of Dr. Summit's work that in any way
15 states that it should be used to diagnose or differentiate
16 children who have -- it's not meant to be a diagnostic tool.
17 It's an explanatory concept which already accepts those people
18 who have been adjudicated to have been abused. It explains
19 after the fact. It does not tell you how to determine who is
20 abused.

21 So it's not a flaw at all because it's a syndrome.
22 It's not a basis. Syndromes by definition do not prognosticate.

23 Q Well, Doctor, at this point in time, nobody has been
24 adjudicated as sexually abused.

25 MR. ROSENBLATT: Objection.

1 Q Doesn't that flaw in fact fly to the theory that you
2 just gave to this jury?

3 MR. ROSENBLATT: Objection.

4 THE COURT: Sustained.

5 Q There are symptoms associated with child sexual abuse,
6 is there not?

7 A Well --

8 Q Yes or no?

9 A Yes.

10 Q Okay. And one of those symptoms would be problems in
11 school, poor grades; is that correct?

12 A No, it's not correct.

13 Q Really?

14 MR. ROSENBLATT: Objection to the comments, Judge.

15 THE COURT: Mr. Bandelli.

16 Q So --

17 THE COURT: Mr. Bandelli. You ask questions, you
18 get answers. You don't comment on the answers and you don't
19 repeat the answers. Please cease doing that.

20 Q So school performance has no bearing as a symptom of
21 sexual abuse syndrome as you understand it?

22 A That's not what I said.

23 Q Okay. Well, answer so then -- that's the question.

24 A Okay. I would be glad to answer.

25 The question is: Do all children who indeed have been

1 found to be sexually abused express it in school, the answer is
2 no.

3 Do some children who have been found to be sexually
4 abused do worse in school? Some. Especially at a younger age
5 when they have been more violently attacked.

6 Do some children actually do better in school because
7 it's a safe haven and it's a place where they feel people treat
8 them with respect? Yes, sometimes.

9 So the answer is all of the above, but it's not
10 pathpneumonic. Means there is no direct cause and effect that
11 we can state because from a statistical point of view, more
12 people vary in terms of ups and downs in school than whatever
13 would correlate with being sexually abused. So if you find the
14 average person varying in their school, wrongfully, that's going
15 to predict sex abuse because you will be wrong.

16 Q I am not -- Isn't that a factor that's considered in
17 terms of sexual abuse, and what you seem to answer is that,
18 well, they can do poorly, they can do in the middle, they can do
19 great, so --

20 A Or they may not have any effects at all.

21 Q Okay. So isn't that true then, in any sexual abuse
22 case then, that they could have none of these effects you just
23 spent the last twenty minutes describing to the jury?

24 A They could not have any effects noticed in school, that
25 is correct.

1 Q But could they not have any of the effect or everything
2 else you described, could they not have a flat affect if they
3 have been sexually abused, must very have a flat affect if they
4 have been sexually abused?

5 MR. ROSENBLATT: Objection, Judge. It's three
6 questions.

7 THE COURT: Sustained. Ask one question at a
8 time.

9 Q Must receive a flat affect if they have been sexually
10 abused?

11 A In terms of --

12 Q Must develop a flat affect if they have been sexually
13 abused.

14 A In terms of --

15 Q Did you study Sana Awan's ACS records?

16 A Not purposefully.

17 Q Did you study Sana Awan's medical records?

18 A Not purposefully.

19 Q Did you study Sana Awan's school records?

20 A Not purposefully

21 Q When you say "not purposefully," do you mean
22 intentionally; is what you are saying? You made a decision that
23 you weren't going to study them; is that correct?

24 A Because of the conflict, I was going to be called as an
25 expert.

1 Q Yeah, but don't you think it would be beneficial if you
2 had spoken to these people since -- of what may or may not be
3 reported here?

4 A Only if I was a juror, not giving an opinion.

5 Q Okay. So as a juror, those are important, what these
6 people have; isn't that right?

7 MR. ROSENBLATT: Objection.

8 Q Whether this may be further developed, right?

9 THE COURT: Sustained.

10 Q Drug or alcohol abuse, symptoms of child abuse?

11 MR. ROSENBLATT: Objection to relevance.

12 THE COURT: I will allow it.

13 A There is no direct symptomatology. People who have been
14 traumatized, sexually traumatized may or may not develop alcohol
15 and drug problems.

16 The vast majority of people who do develop those
17 problems have never been sexually abused.

18 Q Is that in fact a fact that has been described in
19 studies as being a symptom of child sexual abuse?

20 A In those literary works, it's made very clear there is
21 no cause and affect.

22 A trauma may make a person try to develop coping
23 mechanisms which were destructive. A person who has been
24 sexually abused may show different symptoms as counselor is
25 saying, but you can't use anyone's symptoms to go backwards and

1 say that they were sexually abused. You can't use any
2 psychological symptom to say for a fact that proves sexual
3 abuse. It's not the proper science.

4 Q Well, as an expert, though, if you're doing an
5 evaluation, aren't you looking for certain symptoms and making a
6 diagnosis?

7 MR. ROSENBLATT: Objection.

8 Q Diagnosis --

9 MR. BANDELLI: Excuse me?

10 THE COURT: Sustained.

11 Q Well, aren't there symptoms you look for in determining
12 whether or not there is child sexual abuse syndrome?

13 MR. ROSENBLATT: Objection.

14 THE COURT: Sustained.

15 MR. BANDELLI: May we approach, Judge?

16 THE COURT: Approach.

17 (Whereupon, a conference was held between all
18 counsel and the Court on the record at the side-bar.)

19 THE COURT: Make your record.

20 MR. ROSENBLATT: Yeah. Last night I did some
21 research on this, being that I was advised this an expert
22 who is going to testify. I had an opportunity review --

23 THE COURT: Mr. Bandelli.

24 MR. BANDELLI: -- to review --

25 THE COURT: Mr. Bandelli, there is nothing wrong

1 with my hearing.

2 Again, we are at a sidebar for a specific --

3 MR. BANDELLI: I will talk low.

4 THE COURT: -- for a specific purpose.

5 The jurors can hear you.

6 MR. BANDELLI: I apologized. I thought I was
7 talking low.

8 I am being serious. I apologize.

9 There is symptoms that are identified with the
10 syndrome that he described. I am certainly allowed to ask
11 him about these symptoms and whether or not they are
12 symptoms that are either consistent or inconsistent, and
13 whether or not this would be considered in making a
14 determination whether or not there is child sexual abuse.

15 The prosecutor can't just limit him to the areas
16 that he wants to; tenderness, et cetera, et cetera. He
17 opened the door to this stuff.

18 MR. ROSENBLATT: So, Judge, what Mr. BANDELLI's
19 position is, he is free to cross-examine an expert on
20 anything he sees fit and he is not subject to the Court's
21 ruling. That's absurd.

22 MR. BANDELLI: I am not asking about blending.

23 MR. ROSENBLATT: There are certain rules that an
24 expert in child sexual abuse, one of which prohibits him
25 from diagnosing or examining records pertaining to the

1 victim. He is not permitted under the law to evaluate her
2 records, school records, testimony of any such other
3 diagnosis.

4 That's what he is seeking to do. He is seeking to
5 have him submit some sort of diagnosis in regards to this
6 victim based upon these factors. That's impermissible.

7 MR. BANDELLI: No. Actually, I am trying to
8 demonstrate that there are factors that are associated with
9 the syndrome that he would be looking for that don't match
10 up with the victim in this case. Just like he is looking to
11 find ones that are consistent.

12 THE COURT: He can ask him about the factors in
13 the syndrome.

14 You are asking him about diagnosing a specific
15 case. You can't do that.

16 MR. BANDELLI: All right.

17 THE COURT: The DA brought out a syndrome, you can
18 examine him on the syndrome. All right?

19 MR. BANDELLI: Fair enough.

20 (Whereupon, all parties returned from the sidebar
21 and the following took place:)

22 THE COURT: You may proceed.

23 MR. BANDELLI: Thank you, Judge.

24 Q So as I understand it, with drug or alcohol abuse, that
25 may or may not be a symptom of sexual abuse; is that your

1 testimony?

2 A (Nodding.)

3 MR. ROSENBLATT: Objection as to the symptoms of
4 abuse, Judge, talking about study.

5 THE COURT: Sustained.

6 Q Well, in accordance with the study of drug and alcohol
7 abuse, it may or may not be a symptom of sexual abuse?

8 MR. ROSENBLATT: Judge, again, we are talking
9 about symptoms.

10 THE COURT: Curtail your questions to the study.

11 MR. BANDELLI: I am to the study, Judge.

12 Q Drug or alcohol abuse a symptom which may or may not be
13 consistent with sexual abuse according to the study?

14 A Drug and alcohol abuse would not be verbalized as a
15 symptom of sexual abuse.

16 A consequence of any trauma may be coping mechanisms
17 such as eating disorders or gambling disorders, marital
18 disorders. But there is nothing associated particularly with
19 drug and alcohol abuse that would lead you to the conclusion
20 that the person has been sexually abused, it's not a symptom of
21 sexual abuse.

22 Q Okay. So as a consequence of sexual abuse -- to use
23 your words -- then drugs or substance abuse, according to the
24 study, could be identified as being a consequence of sexual
25 abuse; is that correct?

1 A It is possible that for some women or men who have been
2 sexually abused, they may become more likely to be addicted to
3 substances, but the vast majority of people who are addicted to
4 substances have never been sexually abused.

5 Q So then why do they include this in the study?

6 MR. ROSENBLATT: Objection.

7 THE COURT: Sustained.

8 Q How about withdrawal from family and friends or usual
9 activities?

10 Is that a symptom of sexual abuse according to the
11 study you are relying on?

12 A No.

13 Q Is it a consequence?

14 A It's possible, but in an interfamiliarity setting, the
15 general guideline is the child is trapped, so it's very hard to
16 withdraw from your family when you are an adolescent because
17 where are you going to go? You don't have the kind of
18 resources. So it's not something we tend to look at, you know,
19 so that would be highly correlated with a person who is still
20 under the legal auspices of a family, that they could withdraw
21 from the family.

22 Q How about friends or social activities?

23 A Again, it is nothing specific. Some people who
24 withdraw from social events because they have social anxiety,
25 which has nothing to do with being sexually abused.

1 Q Okay. So based on what you are saying then, the source
2 of somebody's behavior could be related to anxiety, not
3 necessarily sexual abuse; is that correct?

4 A I agree.

5 Q Okay. And the source of somebody's behavior could be
6 related to another type of trauma, not necessarily sexual abuse;
7 is that correct?

8 A I think that's a fair statement.

9 MR. BANDELLI: Nothing further.

10 Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: Thank you, Doctor. You may step down.

13 THE WITNESS: Thank you, your Honor.

14 (Whereupon, the witness left the witness stand.)

15 THE COURT: Mr. DA, you may call your next
16 witness.

17 MR. ROSENBLATT: Judge, may I approach before I
18 call my next witness?

19 THE COURT: Approach the bench.

20 (Whereupon, a conference was held between all
21 counsel and the Court off the record at the side-bar.)

22 THE COURT: All right. Due to scheduling, we are
23 going to recess for the day. You are going to come back
24 tomorrow morning -- tomorrow afternoon at 1 o'clock.
25 Tomorrow afternoon. You'll be able to sleep late tomorrow.

1 Get to the courthouse between 1:00 and 1:30
2 tomorrow morning -- tomorrow afternoon, and the court
3 officer will meet you, and I anticipate we should finish the
4 testimony on this trial tomorrow afternoon, or the latest
5 Thursday morning, just to let you know.

6 All right. Remember there is no court session
7 tomorrow morning on this case.

8 Not to discuss this case among yourselves or with
9 anyone else. Anyone tries to discuss it with you, you bring
10 it to my attention immediately. You are not to view any
11 premises that have been mentioned and you are not to form
12 any opinion as to whether or not you feel the defendant is
13 guilty or not guilty of the crimes with which he is charged.

14 Remember come to the courthouse between 1:00 and
15 1:30 tomorrow. We will resume with the testimony tomorrow
16 afternoon.

17 Get home safely. Enjoy your afternoon and
18 evening. See you tomorrow afternoon.

19 Follow the instructions of the court officer.

20 (Whereupon, the jury exited the courtroom and the
21 following occurred:)

22 THE COURT: Mr. Bandelli, you have all your
23 witnesses here tomorrow afternoon.

24 MR. BANDELLI: Yes, sir.

25 MR. ROSENBLATT: Judge, at this point, I still

1 have not received all of the dates of birth in regards to
2 the witnesses. At this point, if he is calling any of those
3 people, I ask the Court to have a reasonable amount of time
4 to go back to my office to do my diligent work to prepare
5 for those witnesses.

6 I have made now my third request for the dates of
7 birth for the missing individuals.

8 MR. BANDELLI: Which ones don't you have?

9 MR. ROSENBLATT: You provided me a list and the
10 list was missing dates of birth.

11 MR. BANDELLI: I know. There were five, two that
12 didn't tell me. Which two?

13 MR. ROSENBLATT: I don't have that list with me,
14 list is back in the office with the paperwork.

15 I believe it's Ms. Paguada, Ms. Reyes and
16 Mr. Sukhram, but again, there was typed up on the list and
17 the list I have is incomplete. If he has all the dates of
18 birth, I am happy to talk to them at this point, but I still
19 don't have all of them.

20 MR. BANDELLI: I don't have one of the witness's
21 date of birth, Ms. Cuba, but I will get the other two dates
22 of birth to him, call him. I will work on it right now.

23 THE COURT: You said you have all of them except
24 one?

25 MR. BANDELLI: No, I have five that I have given

1 to him. I believe on the sheet he is saying there is three
2 missing. I thought there was two missing.

3 MR. ROSENBLATT: There is eight names on the list.

4 MR. BANDELLI: Okay. I may be mistaken. I don't
5 have it in front of me right now. If it would be helpful, I
6 don't want to hold him up with the dates of birth.

7 THE COURT: How many witnesses do you intend to
8 call tomorrow?

9 MR. ROSENBLATT: Judge, perhaps this is a good
10 time as any then since we have a few minutes to work.

11 I am going to ask for an offer of proof as to some
12 of these people. It's clear from the testimony and the
13 allegations that none of these people were present during
14 any of the incidents.

15 THE COURT: Mr. Bandelli.

16 MR. BANDELLI: Yeah, I am going to have --

17 THE COURT: How many you going to call?

18 MR. BANDELLI: I can have five tomorrow. I can
19 tell you, with the exception of character witnesses.

20 MR. ROSENBLATT: Judge, most respectfully, I
21 submit that -- well, I am going to ask for an offer of
22 proof.

23 THE COURT: He said they are character witnesses.

24 MR. ROSENBLATT: As to what character? There is
25 no character of his at issue. If he is testifying and these

1 are character witnesses as to the defendant's truthfulness,
2 then perhaps that would be a showing for a character witness
3 as to truthfulness. If these are five individuals who are
4 going to testify that prior to this arrest they discussed in
5 the community the defendant's reputation for not abusing
6 children, then certainly that's a character of which would
7 be relevant; but at this point, I submit unless the
8 defendant is testifying, there is no other character that's
9 become an issue.

10 THE COURT: Be prepared tomorrow.

11 MR. BANDELLI: Got it, Judge.

12 THE COURT: Submit to the offer of proof 2 o'clock
13 tomorrow.

14 MR. BANDELLI: Thank you, Judge.

15
16 (The trial was adjourned to July 14, 2010,
17 2:00 P.M.)
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1 SUPREME COURT OF THE STATE OF NEW YORK.

2 COUNTY OF QUEENS: CRIMINAL TERM: PART TAP-D

3 -----X

4 THE PEOPLE OF THE STATE OF NEW YORK : Indictment
: No. 2065/08

5 -against-

6 HAROLD GOPAUL,

7 Defendant. : CRM SX ACT 1

8 -----X JURY TRIAL

9
10 125-01 Queens Boulevard
11 Kew Gardens, New York
12 July 14, 2010

13 B e f o r e:

14 HONORABLE GREGORY L. LASAK,
15 Supreme Court Justice

16 A p p e a r a n c e s:

17 HONORABLE RICHARD A. BROWN
18 District Attorney, Queens County
19 BY: JARED ROSENBLATT, ESQ.

20 STANFORD BANDELLI, ESQ.
21 Attorney for Defendant
22 16 Court Street
23 Brooklyn, New York

24 * * *
25 SHERYL FITZPATRICK, RPR CSR
Official Court Reporter

Proceedings

1 THE CLERK: Case on trial. People versus Harold
2 Gopaul. Let the record reflect the defendant is before the
3 Court.

4 MR. BANDELLI: Stanford Bandelli on behalf of
5 Harold Gopaul.

6 MR. ROSENBLATT: For the People Assistant District
7 Attorney Jared Rosenblatt.

8 Good afternoon, your Honor.

9 THE COURT: Good afternoon.

10 COURT OFFICER: Jury entering.

11 (Panel of sworn jurors enters the courtroom.)

12 THE CLERK: Case on trial. All parties are
13 present, your Honor. Do both sides stipulate that all
14 jurors are present and properly seated?

15 MR. ROSENBLATT: Yes.

16 MR. BANDELLI: So stipulated, your Honor.

17 THE COURT: Good afternoon, ladies and gentlemen.
18 I hope you are all well rested.

19 Mr. DA, you may call your next witness.

20 MR. ROSENBLATT: Your Honor, the People call
21 Assistant District Attorney Brian Hughes.

22 COURT OFFICER: The People call Assistant District
23 Attorney Brian Hughes, H-u-g-h-e-s, Queens DA's office.

24 MR. ROSENBLATT: May I inquire, your Honor?

25 THE COURT: Yes, you may.

Hughes-People-Direct

1 MR. ROSENBLATT: Thank you.

2 B R I A N H U G H E S, Assistant District Attorney, called
3 on behalf of the People, having been duly sworn, took
4 the witness stand and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. BANDELLI:

7 Q ADA Hughes, can you tell the members of the jury how
8 long have you been working for the Queens DA's office?

9 A I've been with the office three years in August.

10 Q Where do you currently work?

11 A I work in the Domestic Violence Bureau which is located
12 at the Family Justice Center.

13 Q Tell the members of the jury what type of cases you
14 handle in the Domestic Violence Bureau.

15 A I deal with a felony and misdemeanor case load of about
16 180 cases dealing with incidents in which there were domestic
17 partners who either engaged in physical disputes, violated
18 orders of protection, threatened each other, those types of
19 things.

20 Q In addition to your role of maintaining a case load, do
21 you also participate in the Special Victim's Bureau's beeper
22 program or riding program?

23 A Yes, I do.

24 Q Tell the members of the jury what is the riding program
25 itself in regards to the Special Victim's Bureau.

Hughes-People-Direct

1 A Well, approximately twice a month an assistant district
2 attorney from either the Domestic Violence Bureau or the Special
3 Victim's Bureau will be on call for a 24-hour period. If during
4 that 24-hour period there is a significant sex crime which takes
5 place within the county, we may be asked to respond to either
6 conduct interviews at the site or the location of a hospital or
7 precinct, perhaps take a statement from a defendant, write
8 subpoenas, arrest warrants, those type of things.

9 Q And the Special Victim's riding program that the office
10 has, how many days a year is that program run?

11 A It's run 365 days a year divided up between each of the
12 assistant district attorneys between the Special Victim's and
13 Domestic Violence Bureau over that period of time.

14 Q When an attorney like yourself is on beeper, for how
15 long are you on call?

16 A It's a 24-hour period. It begins at 9:00 one morning
17 and goes to 9 o'clock next morning.

18 Q I want to turn your attention to June 24, 2008. Were
19 you working as a member of the Assistant District Attorney's
20 office on that date?

21 A I certainly was.

22 Q And were you assigned to the Domestic Violence Bureau
23 on that date?

24 A That's correct, I was.

25 Q And as part of your duties on that date, were you the

Hughes-People-Direct

1 assigned assistant district attorney that was on call for
2 Special Victims?

3 A That is correct, I was.

4 Q I want to talk to you about sometime after 11:30 in the
5 morning. Were you at work?

6 A Yes. I was at work at that point in time.

7 Q And without telling us what was said, tell the members
8 of the jury what happened that morning.

9 A Well, at approximately 11:30 I received information to
10 suggest I needed to respond to a scene involving a crime that
11 had taken place in Queens County that had been reported earlier
12 and an arrest had been made.

13 Q What was the name of the --

14 MR. ROSENBLATT: -- withdrawn.

15 Q Do you remember who notified you in regards to that?

16 A There's an organization -- a division within the
17 District Attorney's office called the hotline in which they
18 received information from precincts, and then those detectives
19 who are manning this hotline will notify the ADAs who are riding
20 ADAs, responding ADAs, and that's how I received this
21 notification.

22 Q Where did you go?

23 A I actually proceeded down the hallway to the Special
24 Victim's Bureau to conference the matter with Bureau Chief
25 Marjorie Fisher.

Hughes-People-Direct

1 Q Before you conferenced the case with Marjorie Fisher,
2 what did you do?

3 A I proceeded out to the hospital to speak with the
4 victim, and Miss -- ADA Fisher also went to the hospital.

5 Q When you say you went to the hospital, was that
6 Northshore Hospital?

7 A It was Northshore Hospital.

8 Q Who did you speak with at Northshore Hospital when you
9 arrived there on June 24, 2008?

10 A I conferenced the matter further with Bureau Chief
11 Fisher, then eventually was able to speak to Sana Awan, the
12 complainant in this matter.

13 Q Did there come a point in time when you were at the
14 hospital that you received another notification from the
15 hotline?

16 A Yes. I was in contact with the hotline throughout the
17 course of that day, actually.

18 Q What happened in regards to receiving an additional
19 notification while at the hospital?

20 A I received information that the defendant was
21 interested --

22 MR. BANDELLI: Objection, your Honor.

23 THE COURT: Sustained.

24 Q Without telling us what was said to you, what did you
25 do in response to that notification from the hotline?

Hughes-People-Direct

1 A I advised one of the detectives in our office to
2 proceed to the 105 Precinct to prepare for a video statement.

3 Q What was the role of that detective who you notified?

4 A The role of that detective was to set up video
5 equipment at the 105 Precinct so that the defendant could
6 provide a statement regarding his take on the incident.

7 Q After speaking with Sana at the hospital, approximately
8 what time did you leave the hospital?

9 A It was probably in the neighborhood of 2:30, 3 o'clock.

10 Q Where did you go?

11 A I proceeded to the 105 Precinct.

12 Q When you arrived at the 105 Precinct, who did you speak
13 with there?

14 A Well, I spoke to a variety of people there. I spoke to
15 Detective Shulman. I spoke to Officer Alfaro. I actually had
16 further interview with Miss Awan at that point. Eventually I
17 also spoke to ADA Rosenblatt who responded to the scene
18 eventually as well.

19 Q At some point on June 24, 2008 I responded to the
20 precinct?

21 A Yes, you did.

22 Q Sometime shortly after 5 p.m., tell the members of the
23 jury what happened at the 105 Precinct.

24 A About 5 p.m. we conducted a video statement which the
25 defendant informed us about his position on the allegations that

Hughes-People-Direct

1 were made against him by Miss Awan.

2 Q When you say "defendant," who are you referring to?

3 A Harold Gopaul.

4 Q Do you see Mr. Gopaul in the courtroom today?

5 A Yes, I do.

6 Q Can you identify him by an article of clothing he is
7 wearing?

8 A Certainly.

9 He is wearing a white shirt, and it looks like a black
10 striped tie.

11 MR. BANDELLI: Indicating my client, your Honor.

12 THE COURT: The record will indicate the witness
13 has identified the defendant.

14 Q Other than what's contained on the video that you
15 described, did you have any conversation with Mr. Gopaul?

16 A I did not.

17 Q Prior to the video statement between 2:30 and 5 p.m.,
18 did you ask Detective Shulman to provide anything for the
19 defendant?

20 A Yes, I did.

21 Q What did you ask him to provide?

22 A I made sure that the defendant had water and some type
23 of food. I believe a bag of chips.

24 Q When you were in --

25 MR. ROSENBLATT: -- withdrawn.

Hughes-People-Direct

1 Q Where did this video interview take place inside the
2 105 Precinct?

3 A There was an interview room, I believe, available there
4 at that point in time.

5 Q And when you observed the defendant inside the
6 interview room sometime after 5 p.m. on June 24, did you observe
7 any injuries on him?

8 A No, no injuries to the defendant.

9 Q Did you observe any bruises or swelling to his face or
10 body?

11 A No. He had no bruises or swelling.

12 Q Did he appear coherent to you?

13 A He did.

14 MR. ROSENBLATT: Your Honor, I ask that this be
15 marked People's Exhibit 10 for identification purposes and
16 shown to the witness, please.

17 THE COURT: Please mark that People's 10 for
18 identification only.

19 (DVD was marked as People's Exhibit 10 for
20 identification.)

21 COURT OFFICER: People's 10 marked for ID only.

22 Q ADA Hughes, take a look at what has been marked as
23 People's Exhibit 10 for identification purposes. Tell the
24 members of the jury, do you recognize that?

25 A I do.

Hughes-People-Direct

1 Q What do you recognize that to be?

2 A This is a DVD of the statement that the defendant made
3 on that occasion.

4 Q And have you reviewed that before today?

5 A I have.

6 Q And have you indicated in some way that the contents
7 that are on it are a fair and accurate representation of what
8 appeared -- of what took place inside the interview room on
9 June 24, 2008?

10 A Yes, I have.

11 Q How have you made that notification?

12 A I put my initials here it looks like in the top left
13 corner of the DVD after I viewed it to indicate that it was fair
14 and accurate.

15 Q Does that DVD include all of the conversations that
16 took place between you, myself and the defendant on June 24,
17 2008?

18 A Yes, it includes everything.

19 MR. ROSENBLATT: Your Honor, I would offer
20 People's Exhibit 10 into evidence at this time.

21 THE COURT: Please show it to Mr. Bandelli.

22 MR. BANDELLI: Thank you, Judge.

23 Just a couple of questions, Judge.

24 THE COURT: You may proceed.

25 MR. BANDELLI: Thank you.

Hughes-People-Direct

1 VOIR DIRE EXAMINATION

2 BY MR. BANDELLI:

3 Q Good afternoon.

4 A Good afternoon.

5 Q "BH." Brian Hughes?

6 A Yes.

7 Q All right.

8 Who was present during the video?

9 A That was myself, ADA Rosenblatt, Detective Shulman, the
10 detective who was manning the camera at the time whose name I
11 don't recall.

12 Q You weren't actually responsible for videotaping it,
13 right?

14 A No, I was not.

15 MR. BANDELLI: Objection, Judge.

16 THE COURT: You are objecting?

17 MR. BANDELLI: Yes. On the basis I'm objecting to
18 every statement that was taken in this case. The same
19 basis, Judge.

20 THE COURT: Thank you.

21 Objection overruled. People's 10 is received in
22 evidence.

23 (People's Exhibit 10, previously marked for
24 identification, was marked and received in evidence.)

25 COURT OFFICER: People's 10 marked and received.

Hughes-People-Cross

1 MR. ROSENBLATT: With the Court's permission I
2 would ask to play People's Exhibit 10 at this time.

3 THE COURT: You may proceed.

4 MR. BANDELLI: Judge, we can't really see it from
5 over here. Could it be positioned so that my client and I
6 also have an opportunity to see it?

7 (Pause in proceedings.)

8 THE COURT: Mr. Bandelli, you can come over here.
9 Put the defendant at the end of that table.

10 MR. BANDELLI: Over here?

11 THE COURT: Right in front.

12 (People's Exhibit 10 played in open court.)

13 MR. ROSENBLATT: I have no further questions, your
14 Honor.

15 THE COURT: Mr. Bandelli.

16 MR. BANDELLI: Thank you, Judge.

17 CROSS-EXAMINATION

18 BY MR. BANDELLI:

19 Q Good afternoon, ADA Hughes.

20 A Good afternoon, Mr. Bandelli.

21 Q You know my name, so I don't have to say what my name
22 is. I'm going to ask you some questions. If you don't know the
23 answer, tell me you don't know. If you don't understand a
24 question, I'll rephrase it. Fair enough?

25 A That's fine.

Hughes-People-Cross

1 Q Okay.

2 You described the beeper duty as being 24/7; is that
3 correct?

4 A Well, it's not 24/7 for each individual ADA, but it is
5 covered 24 hours a day 7 days a week 365 days a year by some
6 ADA.

7 Q You started on the 24th at 9:00 in the morning; is that
8 correct?

9 A Correct.

10 Q So, that means there would have been someone working
11 the 24 hours preceding 9 o'clock in the morning; is that
12 correct?

13 A Yes.

14 Q Who was that?

15 A I don't know.

16 Q Was it an assistant from your office?

17 A It would be an assistant district attorney from either
18 Domestic Violence or Special Victim's Bureau. I'm not aware of
19 who it was.

20 Q If that ADA was notified there was somebody at the 105
21 Precinct that wanted to give a statement, he would have gotten a
22 page?

23 A If it came in prior to the 9 o'clock shift beginning,
24 in all likelihood they would have, yes.

25 THE COURT: You received the page when?

Hughes-People-Cross

1 THE WITNESS: 11:30, somewhere in that area.

2 Q You are aware that my client was in custody since
3 3:30 the night before, correct?

4 MR. ROSENBLATT: Objection.

5 THE COURT: Overruled.

6 A I was aware that he had been arrested the night before.
7 I don't know the specific time.

8 Q Well, you took some notes when you went down to the
9 precinct; did you not?

10 A I did. I'm not sure if all of the notes were taken at
11 the precinct itself. There were notes taken over the course of
12 the day.

13 Q You took some handwritten notes throughout the course
14 of the investigation; is that correct?

15 A That's correct.

16 MR. BANDELLI: Officer, could I have these handed
17 to the witness?

18 Q I ask you whether or not it refreshes your recollection
19 as to whether or not my client was in the precinct at 3:30 in
20 the morning.

21 MR. ROSENBLATT: Objection.

22 THE COURT: Sustained.

23 Q Well, if it refreshes your recollection as to whether
24 or not my client was in custody at 3:30 in the morning --

25 MR. ROSENBLATT: Objection.

Hughes-People-Cross

1 THE COURT: Sustained.

2 MR. BANDELLI: Can we have a side bar?

3 THE COURT: No.

4 MR. BANDELLI: Well, then we are going to --

5 Q When did you learn that he was in custody?

6 MR. ROSENBLATT: Objection.

7 THE COURT: Overruled.

8 A I learned he was in custody when I received the
9 notification at 11 o'clock.

10 Q What time did you learn that he was placed in custody?

11 MR. ROSENBLATT: Objection.

12 THE COURT: Sustained.

13 MR. BANDELLI: Judge, may we have a side bar?

14 THE COURT: No. Move on.

15 MR. BANDELLI: Note my exception, Judge.

16 Q You have no idea what time he was taken into custody at
17 the precinct?

18 MR. ROSENBLATT: Objection. Objection.

19 THE COURT: He doesn't know.

20 Q Do you know who the officer was that placed him in
21 custody at the precinct?

22 A It was either Officer Alfaro or Detective Shulman. I
23 believe Officer Alfaro was the arresting officer.

24 Q Do you know who the officer was that placed Mr. Gopaul
25 in custody at the 105 Precinct?

Hughes-People-Cross

1 MR. ROSENBLATT: Objection.

2 THE COURT: Overruled.

3 A I don't specifically know who placed him in custody,
4 no.

5 Q Now, the pager was working from 4 o'clock in the
6 morning through 9 o'clock the next morning -- well, actually the
7 same morning the pager was working in terms of an ADA in Queens
8 being notified that somebody was at the 105 Precinct and wanted
9 to give a statement; is that correct?

10 A I have no idea. I can only testify to 9 o'clock on
11 that day when I was being notified. I have no --

12 Q Well, did you ever have a circumstance where you had
13 the pager and the pager wasn't working?

14 MR. ROSENBLATT: Objection.

15 THE COURT: Sustained.

16 Q So, you actually go to the precinct at what time?

17 A I probably headed to the 105 around 2:30, 3 o'clock,
18 somewhere in that neighborhood.

19 MR. BANDELLI: Officer, if you don't mind, could I
20 get that paperwork back?

21 Q You spoke with a Detective Shulman when you got to the
22 precinct?

23 A Among other people, yes.

24 Q Detective Shulman told you he had taken statements from
25 my client; is that correct?

Hughes-People-Cross

1 MR. ROSENBLATT: Objection.

2 THE COURT: Overruled.

3 A He did indicate that, yes.

4 Q And he told you the substance of those statements, is
5 that correct?

6 MR. ROSENBLATT: Objection.

7 THE COURT: Overruled.

8 A He did indicate to me what the statements were about,
9 yes.

10 Q As a matter of fact, you wrote them down in your
11 handwritten notes; didn't you?

12 A I believe I summarized them.

13 Q So, you knew before you went in to talk to my client
14 what he had already said; is that correct?

15 A I was aware he made written statements to the effect of
16 what I wrote down in my notes.

17 Q Did you write down five oral sex sessions --

18 MR. ROSENBLATT: Objection.

19 THE COURT: Sustained.

20 Q Well, you knew what he was going to say when you went
21 in there; didn't you?

22 MR. ROSENBLATT: Objection.

23 THE COURT: Sustained.

24 Q You went in, Mr. Rosenblatt went and Detective Shulman,
25 right?